

CITY OF GREENFIELD CHARTER

Charter Review Committee 2020
Report



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CHARTER

[HISTORY: Approved by the voters of the City of Greenfield 6-11-2002; effective 7-1-2003. Amended January 4, 2008, January 9, 2009, and January 8, 2013. Amendments noted where applicable.]

GENERAL REFERENCES

Legislative history of Greenfield Government -- See Ch. A2001.

ARTICLE 1

INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1: INCORPORATION

The inhabitants of the City of Greenfield, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "City of Greenfield."

SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the "City of Greenfield Home Rule Charter."

SECTION 1-3: DISTRIBUTION OF POWERS

The administration of the fiscal, and municipal affairs of the City of Greenfield, with the government thereof, shall be vested in an executive/administrative branch headed by a Mayor, and a legislative branch comprised of a City Council consisting of thirteen (13) members.

SECTION 1-4: POWERS OF THE CITY

Subject only to express limitations on the exercise of any power or function by a municipal government in the Constitution or General Laws of the Commonwealth, it is the intention and the purpose of the voters of Greenfield through the adoption of this Charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein.

SECTION 1-5: CONSTRUCTION

The powers of the City of Greenfield under this Charter are to be construed liberally in favor of the City, and the specific mention of any particular power is not intended to limit the general powers of the City as stated in section 1-4.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the Constitution or General Laws of the Commonwealth, Greenfield may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the

Commonwealth or any agency or political subdivision thereof, or with the United States government or any agency thereof.

SECTION 1-7: DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this Charter shall have the following meanings:

- (a) *Charter* -- The word "Charter" shall mean this Charter and any amendments to it that may hereafter be adopted.
- (b) *Days* -- The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven (7) days; when the time set is seven (7) days or more, every day shall be counted. When the last day falls on a Saturday, Sunday or legal holiday the period shall be extended to the end of the next day which is not a Saturday, Sunday or legal holiday.
- (c) *Emergency* -- The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence, event or condition which necessitates immediate action.
- (d) *general laws* -- The words "general laws" (all lower case letters) shall mean laws, which apply alike to all cities and City, to all cities, or to a class of municipalities of which Greenfield is a member. The City of Greenfield shall be governed by the general laws applicable to cities.
- (e) *General Laws* -- The words "General Laws" (used with initial capital letters) shall refer to the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted. The City of Greenfield shall be governed by the General Laws applicable to cities.
- (f) *Library* -- The word "library" shall mean the Greenfield Public Library, and any branch or branches, which may be established thereof.
- (g) *Local Newspaper* -- The words "local newspaper" shall mean a newspaper of general circulation in the City of Greenfield.
- (h) *Majority Vote* -- The words "majority vote" shall mean a majority of those present and voting, provided that a quorum of the body is present when the vote is taken, unless a higher number is required by law.
- (i) *Multiple Member Body* -- The words "multiple member body" shall mean any City body consisting of two (2) or more persons and whether styled board, commission, committee, subcommittee, or otherwise and however elected or appointed or otherwise constituted.

(j) *Quorum* -- The word "quorum", unless otherwise required by law or this Charter, shall mean a majority of the members of a multiple member body notwithstanding any vacancies, which might then exist.

(k) *City* -- The word "City" shall mean the City of Greenfield.

(l) *City Agency* -- The words "City agency" shall mean any board, commission, committee, department, division or office of the City government.

(m) *City Bulletin Board* -- The words "City Bulletin Board" shall mean the bulletin board in the City Hall on which official City notices are posted and those at other locations within the City which may from time to time be designated as City Bulletin Boards by ordinance, or by other vote of the City Council.

(n) *City Officer* -- The words "City officer" when used without further qualification or description, shall mean a person having charge of an office or department of the City who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the City.

(o) *Voters* -- The word "voters" shall mean registered voters of the City of Greenfield. *

* Suggestion was made to consider adding "resident alien" to this definition, or add a separate definition entitled "resident alien"

Otis: I might suggest additional expository text, e.g.: "Resident aliens, who may be green card holders or persons that meet the IRS substantial presence test, are expressly barred from voting in national elections but have been granted voting rights in local elections by a handful of municipalities across the country."

[AW – I have highlighted all of my comments in blue. I have noted areas I support most strongly. If there are no comments related to a proposed change, that means I have no strong opposition to the proposed changes.]

AW – If it is legal for a "resident alien" to vote in Greenfield but this definition somehow prevents it, then let's add appropriate wording. If this does not prevent legal voting, then I suggest leaving as is.

ARTICLE 2 LEGISLATIVE BRANCH

SECTION 2-1: COMPOSITION; TERM OF OFFICE

(a) *Composition* - There shall be a City Council of thirteen (13) members *, which shall exercise the legislative powers of the City. Four (4) of these members, to be known as "Councilors-at-Large," shall be nominated and elected by and from the voters at large. Nine (9) of these members, to be known as "Precinct Councilors," shall be nominated and elected by the voters in each precinct, one (1) such Precinct Councilor to be elected from each of the nine (9) precincts into which the City is divided, in accordance with section 7-4.

(b) *Term of Office* - The term of office for City Councilors shall be for 4 years, beginning on the first business day of January after the City Election, and until the City Councilors' successors have been qualified.

(c) *Eligibility* - Any voter** shall be eligible to hold the office of Councilor-at-Large. A Precinct Councilor shall at the time of election be a voter of the precinct from which elected, provided if any Precinct Councilor dies, resigns, or removes from his or her precinct, the procedure for filling a vacancy shall apply.

* There were suggestions from the public to either reduce the number of councilors or increase number of councilors. The committee is comfortable with the current number and arrangement.

** Reminder about the fact that a voter can be a resident alien if that definition is accepted and added.

SECTION 2-2: COUNCIL PRESIDENT*

(a) *Election and Term* - As soon as practicable after the Councilors-elect have been qualified following each City Election** or on the first business day of the new year, the members of the City Council shall elect from among its members a Council President*** who shall serve during the ensuing year.

(b) *Powers and Duties* - The Council President shall preside at all meetings of the City Council, regulate its proceedings and shall decide all questions of order. The Council President shall appoint all members of all committees of the City Council, whether special or standing. The Council President shall have the same powers to vote upon all measures coming before the City Council as any other member of the City Council. The Council President shall perform such other duties consistent with the office as may be provided by Charter, by ordinance or by other vote of the City Council.

(c) *Council Vice-President* - The members of the City Council shall also elect from among its members a**** Council Vice-president who shall serve as Acting President during the temporary absence or disability of the Council President during the ensuing term of office. The powers of an acting Council President shall be limited to only those powers of the president as

may be necessary to the conduct of the business of the City Council in an orderly and efficient manner and which may not be delayed.*****

* should add “AND VICE PRESIDENT”.

** It came to the attention of the Committee that this section may be confusing with respect to the first part of the sentence before the word “or”. Since elections are biennial, and the Charter states “after each Election”, it can be interpreted that the President is elected every two years rather than every year, as has been the custom, and which is expressed at the end of the whole sentence. Moreover, the language after the word “or” seems to state that the President is elected each year to serve one year. To remedy the confusion it is suggested that the phrase beginning “As soon as practicable” and through the the word “or” be deleted, and the sentence begin with “On the first business day of the new year....”.

*** Also add the phrase “and Vice President” here.

**** It is suggested to delete the sentence before the *** and then begin by stating “The Vice-president shall serve as Acting President,”

***** The Charter is silent on what process follows in the event the Council President or Vice President is unable to complete his or her term of office. The following new Section 2-2 (d) is suggested:

(d) *Vacancies in the office of President or Vice President* – In the event the Council President or Vice President shall vacate their office for any reason prior to the end of their term of office, at the next regularly scheduled meeting after such vacating and prior to conducting business the Councilors shall elect from among its members a successor President or Vice President to serve for the remainder of the term.

SECTION 2-3: PROHIBITIONS

No member of the City Council shall hold any other City office or City employment for which a salary or other emolument is payable from the City treasury. No former member of the City Council shall hold any compensated appointed City office or City employment until one (1) year following the date on which such former member's service on the City Council has terminated. This provision shall not prevent a City officer or other City employee who has taken a leave of absence in order to serve as a member of the City Council from returning to the same office or other position of City employment held at the time such leave of absence commenced; provided, however, no such person shall be eligible for any other municipal position until at least one (1) year following the termination of service as a member of the City Council.

SECTION 2-4: COMPENSATION; EXPENSES

(a) *Salary* - Each City Councilor may receive an annual salary as established by vote of the City Council. *

* Members of the public suggested that the annual salary be increased due to time and effort required of Councilors, and to make the pool of candidates larger by allowing persons who otherwise cannot afford to run the opportunity for a pay check.

(b) If the City Council sets an annual salary by ordinance, the salary shall not take effect until four (4) years after the effective date of the ordinance. (amended 1/5/2017)

(c) *Expenses* - Subject to appropriation, the Council members shall be entitled to reimbursement of their actual and necessary expenses in the performance of their duties.

SECTION 2-5: GENERAL POWERS

Except as otherwise provided by general law or by this Charter, all legislative powers of the City shall be vested in the City Council, which shall provide for their exercise and for the performance of all duties and obligations imposed upon the City by law.

SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) *Exercise of Powers* - Except as otherwise provided by general law or by this Charter, the legislative powers of the City Council may be exercised in a manner determined by it.

(b) *Quorum* - The presence of seven (7) members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this Charter the affirmative vote of seven (7) members shall be required to adopt any ordinance or appropriation order.

(c) *Rules of Procedure* - The City Council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

1. Regular meetings of the City Council shall be held at a time and place fixed by ordinance.
2. Special meetings of the City Council shall be held at the call of the Council President, or, on the call of any five (5) or more members, by written notice delivered in hand or to the place of residence of each member (or by) * and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the Council President shall be judge, such notice shall be delivered at least forty-eight (48) hours in advance of the time set for such meeting. A copy of the notice to members shall, forthwith, be posted upon the City bulletin board.

* The Councilors on the Committee brought up the need for providing notices by electronic communication as an additional option. Such an option, in order to insure a fair and equitable system of providing notice, should require a communication vehicle that is available to all Councilors and can confirm receipt of such notice to the City Clerk.

Otis: My suggestion, understanding that all Councilors are provided with complimentary Chromebooks and GSuite email addresses, was that electronic notice be required in place of written notice, and that confirmation be provided via read receipts. It's not my suggestion to require electronic and written notice; the clerk's office already provides electronic notice of

special meetings and calls each councilor personally if there is any question of reaching quorum; requiring them to do so on top of the written notice requirement strikes me as an unnecessary burden.

AW – possible wording: “or by secure electronic communication that allows receipt confirmation.”

3. All sessions of the City Council and of every committee or subcommittee thereof, shall at all times be open to the public, unless another provision is made by law.

4. A full, accurate, up-to-date account of the proceedings of the City Council shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting.

5. Provision shall be made for a specific portion of time to be available, at all regular meetings of the City Council, for citizens to address the Council.

SECTION 2-7: ACCESS TO INFORMATION

(a) *In General* - The City Council may make investigations into the affairs of the City and into the conduct and performance of any City agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

(b) *City Officers, Members of City Agencies, Employees* - The City Council may require any City officer, member of a City agency or City employee to appear before it to give such information as the City Council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the City Council.

(c) *Mayor* - The City Council may require the Mayor to provide specific information to it on any matter within the jurisdiction of the City Council. The City Council may require the Mayor to appear before it, in person, to provide specific information on the conduct of any aspect of the business of the City and to respond to written questions made available to the Mayor at the time the demand to attend is made to the Mayor. The Mayor may bring to such meeting any assistant, department head or other City officer or employee the Mayor may deem necessary to assist in responding to the questions posed by the City Council.

(d) *Notice* - The City Council shall give not less than five (5) days notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the City Council seeks information and no person called to appear before the City Council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

SECTION 2-8: OFFICERS ELECTED BY CITY COUNCIL

(a) *City Auditor* - The City Council may **appoint*** a City Auditor to serve for a term of three (3) years and until a successor is chosen and qualified. The City Auditor shall perform a legislative oversight and a post audit function and shall not be involved in the day-to-day administrative detail of the financial operations of the City. The City Auditor shall have free access to all books, accounts, bills and vouchers of the City and shall continuously review and examine the same. The City Auditor shall make periodic reports thereon to the City Council, with such frequency as the City Council by ordinance, by rule or by other vote may direct. All officials of the City shall cooperate with the City Auditor in the performance of this oversight function. The City Auditor shall have such other powers and duties, as may be provided by Charter, by ordinance or by other vote of the City Council.

***** It was suggested that the word “elect” rather than “appoint” be used to be consistent with the other provisions of this Section 2-8.

Otis: I would suggest the words “vote to appoint” rather than “elect.”

(b) *City Clerk* - The City Council shall elect a City Clerk to serve for a term of three (3) years and until a successor is chosen and qualified. The City Clerk shall have the powers and duties relating to the keeping of records and vital statistics, the regulation and conduct of elections, the highway book and the issuance of licenses as are provided to City Clerks by General Laws and such additional powers and duties as may be provided by General Laws, by Charter, by ordinance or by other vote of the City Council. *

(c) *Clerk of the Council* – The City Clerk shall be the Clerk of the City Council. The Clerk of the Council shall give notice of its meetings to its members and to the public, keep the minutes of its proceedings and perform such other duties as may be provided by ordinance or by other vote of the City Council. *

(d) *Removal/Suspension* - Any person elected by the City Council may be removed or suspended by the City Council by the use of procedures substantially the same as those contained in section 3-4(b).*

***** There was discussion among the Committee and the Mayor about who is the “boss” of the City Clerk. While these sections suggest that in some measure the City Clerk works for the Council, is elected by the Council and can be removed by the Council, the City Clerk also performs functions for the Mayor and negotiates salary with the Mayor, yet that relationship with the Mayor is not codified in the Charter. The Committee suggests that it should be.

SECTION 2-9: ORDINANCES AND OTHER MEASURES

(a) *Emergency Ordinances* - No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to the ordinance, separately voted upon and receiving the affirmative vote of at least 9 members of the City Council.

An emergency ordinance shall stand repealed on the sixty-first day following its adoption unless (1) an earlier date is specified in the measure; (2) a second emergency measure adopted in conformity with this section is passed extending it; or (3) a measure passed in conformity with the procedures for measures generally has been passed extending it.

(b) *Measures, In General* - The City Council may pass a measure through all of its stages at any 1 meeting, except proposed ordinances, appropriation orders and loan authorizations, provided that no member of the City Council objects; provided, however, that if 3 members object, a vote on the measure shall be postponed to the next meeting of the City Council.

On the first occasion that the question of adopting any measure is put to the City Council, except an emergency measure as defined in subsection (a), if 3 members object to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the City Council. If when the matter is next taken up for a vote 5 members object to the taking of the vote, the matter shall be further postponed for not less than an additional 5 days. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.

(c) *Publication* - For every proposed ordinance, appropriation order or loan authorization, except emergency ordinances as provided in subsection (a), a complete summary shall be published once in a local newspaper and in any additional manner as may be provided by ordinance, at least 5 days before its final passage. After final passage, it shall be posted on the City bulletin board and otherwise published as may be required by ordinance. The full text of all proposed ordinances, appropriations order and loan authorizations shall be available in the office of the City Clerk at least 5 days prior to final vote.

SECTION 2-10: COUNCIL REVIEW OF CERTAIN APPOINTMENTS

(a) The Mayor shall submit to the City Council the name of each person the Mayor desires to appoint as a member of a multiple-member body. The City Council shall refer each such name as is submitted to it to a standing committee of the City Council which shall investigate each such candidate for appointment and shall make a report, with recommendations, to the full City Council not less than seven (7) nor more than thirty (30) days following such referral.

(b) Appointments made by the Mayor shall become effective on the 35th day following the date on which notice of the proposed appointment was filed with the Clerk of the Council, unless the City Council shall within the said thirty (30) days vote to reject such appointment.

The votes of at least nine (9) members shall be necessary to reject an appointment proposed by the Mayor. The question on rejection of any appointment made by the Mayor shall not be subject to the procedure of Charter objection provided in section 2-9(b) of this Charter.

SECTION 2-11: FILLING OF VACANCIES

If a vacancy should occur in the Office of Precinct Councilor or Councilor at-large, within ninety (90) days prior to the next Annual City Election, it shall remain vacant until that election. Otherwise, the Council President with the advice of the committee chairs may fill that seat by appointing a person residing in that precinct (not applicable for those elected at-large) for which a vacancy exists, subject to a two-thirds vote of the Councilors present, to serve until the next Annual City Election, at which time a person shall be elected to fill the unexpired term.

ARTICLE 3 EXECUTIVE BRANCH

SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION

(a) *Mayor, Qualifications* - The Chief Executive Officer of the City shall be a Mayor, elected by and from the voters of the City at large. Any voter shall be eligible to hold the office of Mayor.* The Mayor shall devote full time to the office and shall not hold any other elective public office, nor shall the Mayor be actively engaged in any other business, occupation or profession during the period of service as Mayor.

* Mayor Wedegartner has suggested that this sentence read “Any registered voter and resident of Greenfield shall be eligible to hold the office of Mayor”.

Also, again, the issue of resident alien being defined as a “registered voter”

(b) *Term of Office* – The term of office of the Mayor shall be 4 years beginning on the first business day of January following the City Election at which the Mayor was chosen and until a successor is qualified.

(c) *Compensation* - The Mayor shall receive a minimum annual salary of \$70,000.*

(d) *Further compensation* - The City Council shall, by ordinance, establish an annual salary for the Mayor, which shall become effective immediately. **

SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

(a) The executive powers of the City shall be vested solely in the Mayor, and may be exercised by the Mayor either personally or through the several City agencies under the general supervision and control of the office of the Mayor. The Mayor shall cause the Charter, the laws,

the ordinances and other orders for the government of the City to be enforced, and shall cause a record of all official acts of the executive branch of the City to be kept.

(b) The Mayor shall exercise a general supervision and direction over all City agencies, unless otherwise provided by general law, by the Charter or by ordinance. Each City agency shall furnish to the Mayor, forthwith upon request, any information, materials or otherwise as the Mayor may request and as the needs of the office and the interest of the City may require.

(c) The Mayor shall be the chief procurement officer for the City responsible for buying, purchasing, renting, leasing, or otherwise acquiring all supplies and all services for all departments and all activities of the City and including all functions that pertain to the obtaining of a supply or a service, including description of requirements, selection and solicitation of sources, preparation and award of all contracts and all phases of contract administration. The Mayor may delegate all or any portion of such powers and duties to a subordinate officer, but no such delegation shall in any way absolve the Mayor from the ultimate responsibility for all procurement activities.

* Should there be a minimum salary expressed in the Charter? Rationale to keep the language is to prevent the salary from ever going below \$70,000. If deleted, see below.

Erin: Could it say something like "Mayor shall receive an annual salary not lower than benchmarked mayoral salaries" or something to that effect if the Council worries about a council going below 70,000.

AW – Minimum salary figure will certainly be outdated by next Charter review, requiring

** It is suggested by the Committee that the language in Section (d) become the language in Section (c) if the current Section (c) removed.

(d) The Mayor shall supervise, direct and be responsible for the efficient administration of all City activities and functions placed under the control of the Mayor by general law, by this Charter, by ordinance or otherwise. The Mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the City of Greenfield and for this purpose shall have the authority to call together for consultation, conference and discussion at all reasonable times all persons serving the City, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise.

(e) The Mayor shall hold no other City office or City employment for which a salary or other emolument is payable from the City treasury. No former Mayor shall hold any compensated appointed City office or City employment until one (1) year following the date on which such former Mayor's City service has terminated. This provision shall not prevent a City officer or other City employee who has taken a leave of absence in order to serve as Mayor from returning to the same office or other position of City employment held at the time such leave of absence

commenced; provided, however, no such person shall be eligible for any other municipal position until at least one (1) year following the termination of service as Mayor.

(f) The Mayor shall be, by virtue of office, a member of every multiple member body of the City. The Mayor shall have a right, as such ex-officio member, to attend any meeting of any multiple member body of the City, at any time, including, so called, executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

SECTION 3-3: APPOINTMENTS BY THE MAYOR

(a) The Mayor shall appoint, subject to the review of such appointments by the City Council as provided in section 2-10, all City officers, department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the Charter, excepting only persons serving under the School Committee, and persons serving under the City Council. Except as may otherwise be required by the **civil service law***, and in this Charter, appointments made by the Mayor shall be for indefinite terms. All persons categorized as department heads shall, subject to the consent of the Mayor, appoint all assistants, subordinates and other employees of the agency for which such person is responsible.

* It has been suggested to the Committee to change the term “civil service law” to “other applicable law”.

Otis: This section does not address multiple-member bodies for which the method of appointment and term of appointment is provided by ordinance, e.g. the proposed Community Preservation Committee. I would suggest adding the words “or by ordinance” after each instance of the word “Charter.”

((b) All appointments and promotions made by the Mayor shall be made on the basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

(c) The Mayor shall appoint four (4) members of the Greenfield Redevelopment Authority¹ and Housing Authority, subject to confirmation by the City Council, consistent with General Laws (MGL c. 121B, ~ 5).

(d) The Mayor shall appoint 5 members of the Board of Trustees for Soldiers’ Memorials, subject to confirmation by the City Council, consistent with section 105 of chapter 41 of the General Laws.

¹ Editor’s Note: See also Ch. 141, Redevelopment Authority, of the Code of the City of Greenfield.

SECTION 3-4: REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS

(a) *City Officers and Department Heads* - The Mayor may, **in writing**, remove or suspend any City officer, or the head of any City department appointed by the Mayor, by filing a written statement with the City Clerk, setting forth in precise detail the specific reasons for such removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the said City officer, or head of a department. The said City officer, or head of a department, may make a written reply by filing such a reply statement with the City Clerk within ten (10) days following the date the statement of the Mayor has been filed; but, such reply shall have no effect upon the removal or suspension unless the Mayor shall so determine. The decision of the Mayor in suspending or removing a City officer or a department head shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Mayor. The removal shall take effect on the 30th day following the date of filing by the Mayor of the notice of removal in the office of the City Clerk.

(b) *Other City Employees* - Unless some other procedure is specified in a collective bargaining agreement or by the provisions of the Civil Service Law, a department head may suspend or remove any assistant, subordinate or other employee of the agency for which such person is responsible in accordance with the procedures established for suspension and removal in the personnel ordinance. The decision of the department head to suspend or remove any assistant, subordinate or other employee shall be subject to review by the Mayor. A person for whom a department head has determined a suspension or removal is appropriate may seek review of such determination by the Mayor by filing a petition for review, in the office of the Mayor, in writing, within ten (10) days following receipt of notice of such determination. The review by the Mayor shall follow the procedures established for suspension and removal in the personnel ordinance. The decision of the Mayor shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Mayor. Nothing in this section shall be construed to be a bar to any other review as may be provided by general law.

SECTION 3-5: TEMPORARY APPOINTMENTS TO CITY OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a City office and the needs of the City require that such office be filled, the Mayor may designate the head of another City agency or a City officer or City employee, or some other person to perform the duties of the office on a temporary basis until such time as the position can be filled as otherwise provided by law, by the Charter or by ordinance. The Mayor shall file a certificate in substantially the following form, with the City Clerk, whenever a person is designated under this section:

"I designate (name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that said person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the City of Greenfield."

(signed) Mayor

Persons serving as temporary officers under the authority of this section shall have only those powers of the office as may be necessary to the conduct of the business of the City in an orderly and efficient manner and which may not be delayed. No acting City officer shall have authority to make any permanent appointment or removal from City service. No temporary appointment shall be for more than thirty (30) days and not more than two (2) renewals of a temporary appointment may be made when a permanent vacancy exists in the office.

SECTION 3-6: COMMUNICATIONS; SPECIAL MEETINGS

(a) *Communications to the City Council* - Within ten (10) weeks following the start of each fiscal year the Mayor shall submit to the City Council, and make available for public distribution, a complete report on the financial and administrative activities of the City for the preceding fiscal year. The Mayor shall, from time to time throughout the year, by written communications, recommend to the City Council for its consideration such measures as, in the judgment of the Mayor, the needs of the City require. The Mayor shall, from time to time throughout the year, but at least quarterly, by written communications, keep the City Council fully informed of the financial and administrative condition of the City and shall specifically indicate in any such reports any fiscal, financial or administrative problems of the City.

b) *Special Meetings of the City Council* - The Mayor may at any time call a special meeting of the City Council, for any purpose, by causing a notice of such meeting to be delivered in hand or to the place of business or residence of each member of the City Council (or by).* Such notice shall, except in an emergency of which the Mayor shall be the sole judge, be delivered at least forty-eight (48) weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall, forthwith, be posted on the City bulletin board.

SECTION 3-7: APPROVAL OF MAYOR; EXCEPTION (VETO)

Every order, ordinance, resolution or vote adopted or passed by the City Council relative to the affairs of the City, except memorial resolutions, the selection of City officers by the City Council and any matters relating to the internal affairs of the City Council, shall be presented to the Mayor for approval. If the Mayor approves of the measure the Mayor shall sign it; if the Mayor disapproves of the measure, the Mayor shall return the measure, with the specific reason or reasons for such disapproval attached thereto, in writing, to the City Council. The City Council shall enter the objections of the Mayor on its records, and not sooner than ten (10) days, nor after thirty (30) days from the date of its return to the City Council, shall again consider the same measure. If the City Council, notwithstanding such disapproval by the Mayor, shall again pass the order, ordinance, resolution or vote by a two-thirds vote of the full Council, it shall then be deemed in force, notwithstanding the failure of the Mayor to approve the same. If the Mayor has neither signed a measure nor returned it to the City Council within ten (10) days following the date it was presented to the Mayor, the measure shall be deemed approved and in force.

SECTION 3-8: TEMPORARY ABSENCE OF THE MAYOR

(a) *Acting Mayor* - The Mayor shall, by a letter filed with the City Council and a copy filed with the City Clerk, designate a qualified City officer or City employee to exercise the powers and perform the duties of the office during the temporary absence of the Mayor for periods of less than ten (10) business days and to serve only when the needs of the City require and only to the extent necessary under the then circumstances.

Whenever, by reason of sickness, absence from the City or other cause, the Mayor shall be unable to perform the duties of the office for a period of ten (10) successive business days, or more, the president of the City Council shall be the acting Mayor. In the event of the absence or disability of the president of the City Council, the Vice-president of the City Council shall serve as acting Mayor.

* The City Councilors on the Committee brought up the need for providing notice by electronic communication as an additional notice option. Such an option, in order to insure a fair and equitable system of providing notice, should require a communication vehicle that is available to all Councilors and can confirm receipt of such notice to the City Clerk.

Otis: See prior comments.

AW – Possibly use wording for electronic notification suggested for Section 2-6 (c)2.

(b) *Powers of Acting Mayor* - The acting Mayor shall have only those powers of the Mayor as may be necessary to the conduct of the business of the City in an orderly and efficient manner and which may not be delayed. The acting Mayor shall have no authority to make any permanent appointment or removal from City service unless the disability of the Mayor shall extend beyond sixty (60) days nor shall an acting Mayor approve or disapprove of any measure adopted by the City Council unless the time within which the Mayor must act would expire before the return of the Mayor. During any period in which any member of the City Council is serving as acting Mayor, such Councilor shall not vote as a member of the City Council.

SECTION 3-9: VACANCY IN OFFICE OF MAYOR

(a) *Special Election* - If a vacancy in the office of Mayor occurs in the first 39 months of the term for which the Mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the City Council shall forthwith order a special election, to be held within ninety (90) days following the date the vacancy is created, to fill such vacancy for the balance of the then unexpired term.

(b) *Council Election* - If a vacancy in the office of Mayor occurs in the last nine (9) months of the term for which the Mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the City Council shall become the Mayor. Upon the qualification of the president of the City Council as the Mayor, under this section, a vacancy shall exist on the City Council, which shall be filled in the manner provided in [section 2-11](#).

(c) *Powers, Term of Office* - The Mayor elected under section 3-9(a) or (b) shall have all the powers of the Mayor. A person elected pursuant to subsection (a), above, shall serve for the balance of the term unexpired at the time of election to the office. A person chosen pursuant to

subsection (b), above, shall serve until the next regular election at which time the person then elected shall serve as Mayor.

Mayor:

(2)

In SECTION 3-8: TEMPORARY ABSENCE OF THE MAYOR

- a) Change the Acting Mayor section first paragraph to reflect a “less than 21 business days” time frame instead of “less than 10 business days” timeframe.
In the second paragraph make the following changes: Change the timeframe to 21 days and change the replacement of the Mayor from *President* of the City Council to *Chief of Staff* to the Mayor. Change the next replacement from *Vice-President* of the City Council to *President* of the City Council.

Rationale: The time frame of 10 days is too short given that many absences whether for vacation, business conferences, and illnesses can involve timeframes of up to 14-21 days.

ARTICLE 4 SCHOOL DEPARTMENT

SECTION 4-1: SCHOOL COMMITTEE²

(a) *Composition, Term of Office* - There shall be a School Committee, which shall consist of seven (7) members. Six (6) of these members shall be nominated and elected by and from the voters of the City at large. The Mayor shall serve, by virtue of office, as the seventh member of the School Committee with all of the same powers and duties as the members elected by the voters as School Committee members.*

* Suggested to the Committee to add here “, except as provided for in this Article”.

Erin: I still do not think that section 2-11 makes sense when the councilor who needs to be replaced is the President. Unless it is assumed that the Vice President becomes President and therefore is the one to appoint a new councilor. If that is the case, I think 2-11 should reference that.

(b) *Term of Office* - The term of office for the 6 members of the school committee elected by the voters shall be for 4 years each, with staggered terms, beginning on the first business day of January after the City Election and continuing until the school committee member’s successor has been qualified.

(c) *Eligibility* - A School Committee member shall at the time of election be a voter. If a School Committee member removes from the City during the term for which elected such office shall immediately be deemed vacant and filled in the manner provided in section 4-6.

SECTION 4-2: SCHOOL COMMITTEE CHAIR*

²Editor’s Note: See also Art. III, School Committee, of Ch. 34, Boards, Committees and Commissions, of the Code of the City of Greenfield.

(a) *Election and Term* – As soon as practicable after the school committee members-elect have been qualified following each City Election or** on the first business day of the new year, as provided in section 8-8, the school committee shall organize by electing 1 of its members to serve as school committee chair*** and 1 of its members to serve as school committee vice-chair **** for the ensuing year.

(b) *Power and Duties* - The School Committee chair shall preside at all meetings of the School Committee, regulate its proceedings and shall decide all questions of order. The School Committee chair shall appoint***** all members of all committees of the School Committee, whether special or standing. The School Committee chair shall have the same powers to vote upon all measures coming before the School Committee as any other member of the School Committee. The School Committee chair shall perform such other duties consistent with the office as may be provided by Charter, by ordinance or by other vote of the School Committee.

(c) *Vice-Chair* - The vice chair of the School Committee shall serve as acting chair during the temporary absence or disability of the School Committee chair during the ensuing term of office. The powers of an acting School Committee chair shall be limited to only those powers of the chair as may be necessary to the conduct of the business of the School Committee in an orderly and efficient manner and which may not be delayed.

* Suggested to add “, VICE CHAIR AND SECRETARY”

** Similar to the change in Section 2-4, it is suggested that the phrase beginning “As soon as practicable” and through the word “or” be deleted, and the sentence begin with “On the first business day of the new year.....”.

*** Discussion about whether to add “The Mayor shall not be eligible to be Chair”.

Pros for change: Mayor has too much power under the Charter, and being Chair is a further consolidation of such power, therefore amend to prevent such an occurrence.

Cons for the change: Mayor should be equal member, and let Committee decide.

Erin: Worth noting that majority of the public we heard from in the public hearing did not support mayor as Chair

**** Suggested to add “and 1 of its members to serve as secretary; all to serve for the ensuing year.”

***** Discussion about whether or not this provision is consistent with School Committee Policy, which as of this date states Chair has the power to “appoint subcommittees, subject to Committee approval, and make chairperson assignments”. Current Charter overrides policy. Suggested to add “in accordance with School Committee Policy Manual” to allow for consistency.

(add new Section 4-2 (d)) here.*

SECTION 4-3: PROHIBITIONS

No person elected as a School Committee member shall hold any other City office or City employment for which a salary or other emolument is payable from the City treasury. No former member of the School Committee shall hold any compensated appointed City office or City employment until one (1) year following the date on which such member's service on the School Committee has terminated. This provision shall not prevent a City officer or other City employee who has taken a leave of absence in order to serve as a member of the School

Committee from returning to the same office or other position of City employment held at the time such leave of absence commenced; provided, however, no such person shall be eligible for any other municipal position until at least one (1) year following the termination of service as a member of the School Committee.

SECTION 4-4: COMPENSATION; EXPENSES

(a) *Salary* - The members of the School Committee, excepting the Mayor, may receive an annual salary.

(b) *Further salary* - The members of the School Committee may receive such salary for their services as may from time to time be set by ordinance.

(c) *Expenses* - Subject to appropriation and to prior authorization, the School Committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

* *Secretary* – The Secretary of the School Committee will keep or cause to be kept an accurate journal and permanent record book of all Committee meetings in which all its votes, orders and proceedings shall be recorded: will comply with state law and Committee policy regarding notification of meetings; and will render such reports as may be required by the state.

AW: I support adding this as new Section 4-2(d)

Erin: Can a and b be consolidated here to be more consistent with other sections of the Charter.

SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

The School Committee shall have all powers which are conferred on School Committees by General Laws and such additional powers and duties as may be provided by the Charter, by ordinance, or otherwise and not inconsistent with said grant of powers conferred by General Laws. The powers and duties of the School Committee shall include the following:

(a) To elect a Superintendent of the Schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the School Committee and upon the recommendation of said Superintendent.

(b) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the School Committee* as may be deemed necessary or desirable.

(c) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the City Council.

SECTION 4-6: FILLING OF VACANCIES

Filling of Vacancies by School Committee - Whenever a vacancy shall occur in the office of School Committee member**, the vacancy shall be filled by*** the remaining members of the School Committee. Persons elected to fill a vacancy by the School Committee shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill such vacancy shall forthwith be sworn and shall serve for the remainder of the unexpired term of the vacated seat. Persons serving as School Committee members under this section shall not be entitled to have the words "candidate for re-election" printed against their names on the election ballot. In the event of an impasse, the president of the City Council shall have a vote.****

* It was recommended to name Standing Committees for the School Committee in the Charter, and to add language about its lawful control of its buildings and grounds as stated in MGL Chapter 43, Section 33a. It was decided to let the School Committee deal with this within its own policies and not within the Charter. However, it may be prudent to add here the language "as required by and allowed by law."

** Suggested to add here "more than 120 days before the next regular biennial election."

Erin: City Council is 90 days. Should these be consistent?

*** Suggested to add "by a majority vote".

**** After discussion by the Committee about who should break a tie resulting from an impasse and trying to think of other options, the Committee decided that the City Council President was an acceptable choice.

Erin: New suggestion for language for this section from John and Erin:

Filling of Vacancies by School Committee – If a vacancy shall occur in the office of School Committee member more than 120 days before the next regular City-wide election, the vacancy shall be filled per the process outlined in the School Committee policy manual. Persons serving as School Committee members under this section shall not be entitled to have the words "candidate for re-election" printed against their names on the election ballot. In the event of an impasse, the president of the City Council shall have a vote.

ARTICLE 5 FINANCE AND FISCAL PROCEDURES*

SECTION 5-1: FISCAL YEAR

The fiscal year of the City shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

SECTION 5-2: SCHOOL COMMITTEE BUDGET

(a) *Public Hearing* - At least twenty-one (21) days before the meeting at which the School Committee is scheduled to vote on its final budget request, the School Committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary

shall specifically indicate any major variations from the current budget and the reasons for such changes. The notice shall further indicate the times and places at which complete copies of the proposed budget are available for examination by the public, and it shall indicate the date, time and place [not less than seven (7) nor more than fourteen (14) days following such publication], when a public hearing will be held by the School Committee on the proposed budget. The School Committee shall not take its final vote on its proposed budget until all persons who desire to be heard concerning the budget proposal have had a reasonable opportunity to be heard.

(b) *Submission to Mayor* - The proposed budget adopted by the School Committee shall be submitted to the Mayor at least twenty-one (21) days before the date the Mayor is required to submit a proposed City budget to the City Council, to allow the Mayor sufficient time within which to consider the effect the school department's requested appropriation will have upon the total City operating budget the Mayor is required to submit to the City Council under this article.

The action of the School Committee in adopting the proposed budget, following the public hearing, shall be summarized and the results of a roll call vote taken on each amendment to the proposed budget as may be offered shall be recorded.

* Based on suggestions from council and school committee members, discussion occurred about changing some of the dates and timelines for budget submittals and about altering notice and hearing date requirements throughout this Article. It was determined that many of the timelines were controlled by State law. Council may wish to change some of the language beyond state law, but the Committee forms no opinions.

Erin: Concern about if we lose our local newspaper? What about also including on the town website.

SECTION 5-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Not later than ninety (90) days before the start of the City 's fiscal year, the Mayor shall submit to the City Council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The Mayor shall simultaneously provide for the publication in a local newspaper of a notice and a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget for the City are available for examination by the public.

SECTION 5-4: BUDGET MESSAGE

The budget message of the Mayor shall explain the budget for all City agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the City for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the City's debt position and include other material as the Mayor deems desirable, or as may be required by the provisions of a City ordinance.

SECTION 5-5: THE BUDGET

The proposed operating budget shall provide a complete financial plan for all City funds and City activities for the ensuing fiscal year. Except as may otherwise be required by general law, or this Charter, it shall be in the form which the Mayor deems desirable or as a City ordinance may require. In the presentation of the budget, the Mayor shall utilize modern concepts of fiscal presentation so as to furnish an optimum level of information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and from all other sources and all proposed expenditures, including debt service, for the fiscal year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

1. Proposed expenditures for current operations during the ensuing fiscal year, detailed by City agency and position, in terms of work programs, and the method of financing such expenditures;
2. Proposed capital expenditures during the ensuing fiscal year, detailed by City agency, and the proposed method of financing each such capital expenditure;
3. The relationship of each proposed capital expenditure to the capital improvement program required to be submitted under section 5-10; and
4. Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

SECTION 5-6: ACTION ON THE BUDGET

(a) *Review* – The City Council shall consider, in open public meetings, the detailed expenditures proposed for each City agency and may confer with representatives of each such agency in connection with its review and consideration. The City Council may require the Mayor or any other City agency to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget.

(b) *Public Hearing* - Not less than 5 days before it is scheduled to vote on its final budget request, the City Council shall publish a summary of the proposed budget stating the time and place in which a public hearing on the proposed operating budget as submitted by the Mayor will be held.

(c) *Action by City Council* - The City Council shall adopt the budget, with or without amendments, within 60 days after it receives the proposed budget. In amending the budget, the City Council may increase or decrease amounts and expenditures as allowed under section 32 of chapter 44 of the General Laws. If the City Council fails to take any action with respect to any item in the proposed budget within 60 days after it receives the proposed budget, such amount shall, without any action by the City Council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

SECTION 5-7: SUPPLEMENTARY BUDGETS; OTHER APPROPRIATIONS

- (a) *Intradepartmental Transfers* - With the approval of the Mayor, funds appropriated for one (1) line item within the appropriation made for a particular municipal agency may be transferred to another line item within the same municipal agency. Whenever such a transfer is
- (b) by the Mayor, notice of the transfer and the circumstances under which such transfer was deemed advisable shall be filed with the Clerk of the City Council.
- (c) *Interdepartmental Transfers* - With the approval of the City Council, funds appropriated to the use of 1 municipal agency may be transferred to the use of another municipal agency as provided in this section.

The City Council may, by majority vote, on recommendation of the Mayor, transfer within the last 2 months of a fiscal year or during the first 15 days of a new fiscal year to apply to the previous fiscal year, an amount appropriated for the use of any department; provided, however, that no transfer shall be made at any other time of any amount appropriated for the use of a City department to the appropriation for any other department except by a 2/3 vote of the City Council; and provided further, that the City Council shall, by ordinance, provide a procedure governing such requests, which shall include at least 2 readings and a public hearing by the City Council and it shall specify the circumstances under which notice by publication in a newspaper shall be required. A request for a transfer of funds from 1 municipal agency to another shall be made by the Mayor, in writing, to the City Council* shall include a statement setting forth the reason the additional funds are needed by the agency to which it is proposed they be transferred. The request shall be accompanied by a certificate, signed by the finance director, accountant and head of the agency from which the appropriation is proposed to be taken, that such transfer will not prevent that agency from performing its vital functions.

The City Council shall hold a public hearing prior to its approval. Notice of the hearing shall be posted or published at least 5 days prior to the vote in accordance with the City ordinance governing such requests.

* In the 2010 recommendations, the Committee suggested a change to section 5-7(b) which included the following:

"Requests for the transfer of funds from one municipal agency to another shall be made by the Mayor, in writing, to the City Council and shall include a statement setting forth the reason the additional funds are needed..."

However, upon approval this section was altered and an important "and" was omitted, obfuscating the meaning of that section:

"A request for a transfer of funds from 1 municipal agency to another shall be made by the Mayor, in writing, to the City Council shall include a statement setting forth the reason the additional funds are needed..."

This error should be amended so that the word "and" is restored.

(c) *Appropriation* - Whenever the Mayor shall submit to the City Council a request for a new appropriation of any sum of money, either a supplement to some item in the annual operating budget or for an item, or items, not included in the annual operating budget as adopted, the City Council shall not act upon such request until it has (1) given public notice of the request, and (2) held a public hearing concerning such request. The City Council shall, by ordinance, determine the level of appropriation request above which amount newspaper publication will be required and below which amount posting on the City bulletin boards will be sufficient.

SECTION 5-8: ALLOTMENTS

(a) On or before August first of each year, or within ten (10) days after the approval of the City Council and the Mayor of the annual appropriation order for such fiscal year, whichever shall occur later, the City officials in charge of departments or agencies, including the Superintendent of Schools for the school department, shall submit to the Chief Financial Officer, with a copy to the City Clerk, in such form as the Chief Financial Officer may prescribe, an allotment schedule of the appropriations of all categories included in said budget, indicating the amounts to be expended by the department or agency for personnel and for every other budget category during each of the fiscal quarters of said fiscal year, or such shorter time periods as the Mayor or Chief Financial Officer may prescribe.

(b) Whenever said Chief Financial Officer determines that any department or agency, including the school department, will exhaust or has exhausted its quarterly or shorter time period allotment and any amounts unexpended in previous periods, he shall give notice in writing to such effect to the department head, the Mayor, the City Attorney, and to the City Clerk who shall forthwith transmit the same to the City Council. Upon such a determination and notice thereof, said Chief Financial Officer shall provide such officers additional reports on at least a monthly basis indicating the status of such accounts.

(c) The Mayor, within seven (7) days after receiving such notice, shall determine whether to waive or to enforce such allotment. If the allotment for such period is waived or is not enforced, as provided above, the department or agency head shall reduce the subsequent period allotments appropriately. If the allotment for such period is enforced or not waived, thereafter the department, on such a schedule to be approved by the Mayor and Chief Financial Officer, shall so adjust expenditures to eliminate the deficit. All actions, notices, and decisions provided for in this section shall be transmitted to the City Council and the City Clerk within seven (7) days.

(d) No expenses earned or accrued, within any department, shall be changed to or paid for such department's or agency's allotment of a subsequent period without approval by the Mayor, except for subsequently determined retroactive compensation adjustments, approval of a payroll for payment of wages, or salaried or other personnel expenses. If the continued payment of wages, salaries or other personal expenses is not approved in a period where a department head has exhausted the period allotment or allotments as specified above, or, in any event if a department has exceeded its appropriation for a fiscal year, the City shall have no obligation to pay such personnel cost or expense arising after such allotment or appropriation has been exhausted.

SECTION 5-9: PERSONAL LIABILITY FOR EXPENDITURES IN EXCESS OF APPROPRIATIONS

(a) No official of the City of Greenfield, except in the case of an emergency involving the health and safety of the people or their property, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the City in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that the provisions of MGL c. 44, ~ 31, shall be strictly enforced.

(b) Any official who violates the provisions of this section shall be personally liable to the City for any amounts so expended to the extent the City does not recover such amounts from the person to whom such sums were paid.

SECTION 5-10: CAPITAL IMPROVEMENT PROGRAM

(a) The Mayor shall submit a capital improvement program to the City Council at least one hundred twenty (120) days before the start of each fiscal year. The capital improvement program shall be based on material prepared by the capital improvement program committee established by ordinance. It shall include:

1. A clear and concise general summary of its contents;
2. A list of all capital improvements proposed to be undertaken during the next ensuing five (5) years, with supporting information as to the need for each capital improvement; cost estimates, methods of financing and recommended time schedules for each improvement; and,
3. The estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

(b) This information is to be annually revised by the Mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 5-11: INDEPENDENT AUDIT

The City Council shall annually provide for an outside audit of the books and accounts of the City to be made by a certified public accountant, or a firm of certified public accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the City or any of its officers. The Mayor shall annually provide to the City Council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the Mayor, in writing, by the City Council. The award of a contract to audit shall be made by the City Council, on or before September fifteenth of each year. The City Council shall coordinate the work of the individual or firm selected with the municipal officials. The report of the audit shall be filed in final form with the City Council not later than March first in the year following its award.

ARTICLE 6
ADMINISTRATIVE ORGANIZATION

SECTION 6-1: ORGANIZATION OF CITY AGENCIES

(a) The organization of the City into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

(b) Ordinances - Subject only to express prohibitions in a general law or the provisions of this Charter, the City Council may, by ordinance, reorganize, consolidate, create, merge, divide or abolish any City agency, in whole or in part; establish such new City agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this Charter to a particular City agency may be discontinued, or assigned to any other City agency, unless this Charter specifically so provides.

(c) *Administrative Code* - The Mayor may from time to time prepare and submit to the City Council plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the City. Whenever the Mayor prepares such a plan the Mayor shall hold one (1) or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven (7) nor more than fourteen (14) days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the City Council by the Mayor. An organization or reorganization plan shall become effective at the expiration of sixty (60) days following the date on which the proposal is submitted to the City Council unless the City Council shall, within said sixty (60) days, by a majority vote, vote to disapprove the plan. The City Council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it. The Mayor may, through the administrative code, and subject only to express prohibitions in a general law, or this Charter, reorganize, consolidate or abolish any City agency, in whole or in part; establish such new City agencies as is deemed necessary to the same extent as is provided in subsection (b), above, for ordinances; and for such purpose transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the City, transfer the appropriation of one City agency to another; provided, however, that no function assigned by this Charter to a particular City agency may be discontinued or, assigned to any other City agency unless this Charter specifically so provides.

Every organization or reorganization plan submitted by the Mayor pursuant to this provision shall contain a proposed ordinance which sets out, in detail, such amendments, insertions, revisions, repeals or otherwise of existing ordinances as may be necessary to accomplish the desired reorganization. Such reorganization plan and proposed ordinance shall be accompanied by a message of the Mayor, which explains the benefits expected to ensue if the plan is adopted.

SECTION 6-2: MERIT PRINCIPLE

All appointments and promotions of City officers and employees shall be made on the basis of merit and fitness demonstrated by examination^{*}, or by other evidence of competence and suitability.

SECTION 6-3: DEPARTMENT OF MUNICIPAL FINANCE

(a) *Establishment, Scope* - There shall be a Department of Municipal Finance responsible for the performance of all of the fiscal and financial activities of the City. The Director of Municipal Finance shall assume all of the duties and responsibilities related to municipal finance activities which prior to the adoption of the Home Rule Charter were performed by or under the authority of the City Accountant, the City Treasurer, the City Collector, and the Board of Assessors; and it may have such additional powers, duties and responsibilities with respect to municipal finance related functions and activities as the City from time to time provide, by ordinance. So much of the powers of a chief procurement officer which the Mayor does not personally exercise, shall be assigned to the Department of Municipal Finance. All activity by the Mayor acting as a Chief Procurement Officer shall be processed through the Department of Municipal Finance.

(b) *Director of Municipal Finance* - The Department of Municipal Finance shall be under the direct control and supervision of a Director of Municipal Finance who shall be appointed by and who shall be responsible to the Mayor. The Mayor shall also appoint the person, or persons, performing the duties of City Collector and City Treasurer. The Director of Municipal Finance shall be a person especially fitted by education, experience and training to perform the duties of the office. The Director of Municipal Finance shall be responsible for the supervision and coordination of all activities of the Department of Municipal Finance in accordance with General Laws, City bylaw, administrative code and rules and regulations. The Director of Municipal Finance shall serve, as the Mayor may from time to time specify, as the City Treasurer, City Collector, Treasurer-Collector or City Accountant.

^{*} The Committee suggests that after the word “examination” the phrase “education and certification” be added in order to broaden the extent of detailed information available for the Mayor in order to evaluate merit and fitness.

SECTION 6-4: DEPARTMENT OF PLANNING AND DEVELOPMENT

(a) *Establishment, Scope* - There shall be a Department of Planning and Development responsible for the coordination of all the planning and development related activities of the City. The Director of Planning and Development shall be responsible for the coordination of all of the duties and responsibilities related to planning and development activities which prior to the adoption of the Home Rule Charter were performed by or under the authority of the Planning Board, Board of Appeals, and the Conservation Commission; and it may have such additional powers, duties and responsibilities with respect to the coordination of planning and development related functions and activities as the City may from time to time provide, by ordinance, and which may include the coordination of all land acquisition and land management

proposals, economic development planning, the preparation of a comprehensive or master plan and maintenance of a centralized source of records, reports, statistical data and other planning and development related materials.

(b) *Director of Planning and Development* - The Department of Planning and Development shall be under the direct control and supervision of a Director of Planning and Development who shall be appointed by and who shall be responsible to the Mayor. The Director of Planning and Development shall be a person especially fitted by education, experience and training to perform the duties of the office. The Director of Planning and Development shall be responsible for the supervision and coordination of all activities of the Department of Planning and Development in accordance with General Laws, City ordinances, administrative code and rules and regulations.

SECTION 6-5: ASSISTANT TO THE MAYOR FOR ECONOMIC DEVELOPMENT AND MARKETING

The Mayor may* appoint an Assistant for Economic Development and Marketing for an indefinite period term whose function it is to promote the economic development and marketing of the City of Greenfield in accordance with the direction of the Mayor.

SECTION 6-6: DEPARTMENT OF CENTRAL MAINTENANCE³

There shall be a Department of Central Maintenance consistent with the Central Maintenance Committee's recommendations as provided by ordinance**.

* The Committee discussed whether the word "may" should instead be "shall". This would make it mandatory, except for budget considerations, to have this skilled position at the executive level.

AW – I support making position mandatory

** The Section was included in the original charter as a placeholder and for cross referencing to a report in 2002 drafted by the Central Maintenance Committee in 2001-2002 outlining how the school and City maintenance budgets for building maintenance could be legally merged in to a new department, the Department of Central Maintenance. The Report is attached as Exhibit _____.

SECTION 6-7: PLANNING AND CONSTRUCTION OF MUNICIPAL BUILDINGS AND OTHER FACILITIES

(a) *Compensation, Mode of Appointment and Term of Office* - There shall be a Planning and Construction Committee (which may be referred to as the "Planning and Construction Committee") consisting of seven (7) members. Six (6) of the committee members shall be appointed by the Mayor for terms of three (3) years each so arranged that the term of two (2) members shall expire each year. In making appointments to the committee, the Mayor shall seek persons having experience in the fields of architecture, engineering, construction, real estate, or law. The seventh member of the committee shall be designated, annually, by the School Committee and may, be a member of the School Committee.

³ Editor's Note: See also Ch. 99, Maintenance Department, of the Code of the City of Greenfield.

(b) *Powers and Duties* - The Planning and Construction Committee shall be responsible for monitoring the physical condition of all municipal buildings and other facilities. The committee shall meet from time to time* with representatives of municipal agencies to evaluate the need for additions, renovations, or remodeling of any existing building or facility or for the construction of new buildings or other facilities. The committee shall file written reports, at least annually, with the Mayor in which, it shall make recommendations as to the need for any project or projects.

Whenever any construction work on any municipal building or other facility is authorized, the Planning and Construction Committee shall be responsible for all work in connection with the project including site planning, surveying, engineering studies, architectural plans and specifications and the supervision of construction.**

* It was discussed within the Committee whether or not the phrase “time to time” should be changed to a specific timetable, ie at least twice a year, etc.

AW – I support change to “at least twice a year.”

** Based on the fact that the most recent building projects, including the John Zon Center, the high school, the library and fire station, have each had their own independent building committee and professionals, and the Planning and Construction’s willingness, the Committee suggests this entire paragraph be deleted.

AW – I support deletion of paragraph for simplicity.

Otis: Absent language codifying this practice, I’m not entirely comfortable with this deletion.

Incidentally, Planning & Construction made a recommendation in their yearly report to “Streamline Duplicative Committees”:

Since the city has ceased most capital borrowing except for major building projects (has moved to leasing or purchasing), it seems that the Capital Improvement Committee is somewhat redundant to the Planning and Construction Committee.

Our vision for more efficient city planning is that department heads bring future capital facility project requests to this Planning and Construction Committee so one committee can review need, inspect the property, evaluate the scope of the project, and frame the capital borrowing recommendation well before these budgeting decisions need to be addressed. The Committee could then work with the Mayor and the Mayor’s project/budget planning personnel in a more complete and timely way. Capital borrowing requests, submitted at the last minute in the budgeting cycle without back-up data and/or time for careful review, consistently cause havoc with information-sharing and funding decisions.

Mayor: In SECTION 6-7: PLANNING AND CONSTRUCTION OF MUNICIPAL BUILDINGS AND OTHER FACILITIES, make the following change:

Revise the last sentence which states: *Whenever any construction work on any municipal building or other facility is authorized, the Planning and Construction Committee shall be responsible for all work in connection with the project including site planning, surveying, engineering studies, architectural plans and specifications and the supervision of construction.*

It should be changed to say: *Whenever any construction work on any municipal building or other facility is authorized, the Planning and Construction Committee shall monitor the work through contact with the Department of Planning and Development and Building Inspections Department.*

Rationale: The current sentence is wholly inaccurate as to process in the City of Greenfield. Much of the work described is under the purview of the Planning Department and the Planning Board as well as the Building Inspectors office.

SECTION 6-8: DEPARTMENT OF HUMAN RESOURCES

(a) *Establishment, Scope* - There shall be a Department of Human Resources, which shall be responsible for all personnel and employee-related functions and activities of the City government and its administration. The Department of Human Resources shall assume all of the duties and responsibilities related to human resources activities which, prior to the adoption of the Home Rule Charter, were performed by or under the authority of the City Accountant, the City Treasurer, and the heads of City agencies; and it may have such additional powers, duties and responsibilities with respect to human resources related functions and activities as the City may from time to time provide, by ordinance. The Department of Human Resources may, at the request of the School Committee, perform any of the same services for employees of the school department as it provides for City employees generally.

The functions of the Department of Human Resources shall include* the following:

1. Plan, administer and direct all phases of all municipal personnel plans and collective bargaining agreements, including job description, position classification, sick and vacation day administration, accident prevention programs, employee grievance procedures, physical examination processing, testing, review and evaluation of work records and all other record keeping related to City employees.
2. Develop new and revised personnel policies and practices to maintain and keep current the existing high standards for municipal personnel.
3. Review and evaluate all requests for new or additional personnel made by City agencies and make recommendations to the Mayor.
4. Advise and assist all agency heads and employees in all aspects of municipal personnel matters including recruitment, promotion, transfer, training, wages, insurance and other benefits of employment.

(b) *Director of Human Resources* - The department shall be headed by a Director of Human Resources appointed by the Mayor and who shall be responsible to the Mayor. The Director of Human Resources shall be a person especially fitted by education, experience and training to perform the duties of the office. The Director of Human Resources shall be responsible for the supervision and coordination of all activities of the Department of Human Resources in accordance with General Laws, City ordinances, administrative code and rules and regulations.

* The Committee suggests that the word "include" should be deleted and instead say "including but not limited to".

Erin: shall include, but not be limited to the following"

SECTION 6-9: BOARD OF LICENSE COMMISSIONERS *

(a) There shall be a Board of License Commissioners which shall have the power to issue licenses for inn-holders or common victuallers, have the powers of a Licensing Board appointed under MGL c. 138, § 4, and to be the licensing authority for the purposes of Chapter 138 and Chapter 140 of the General Laws and which shall have all of the other powers with respect to licenses which prior to the adoption of the Home Rule Charter were exercised by the Board of Selectmen. The Board of License Commissioners may grant licenses relating to alcoholic beverages under Chapter 138 of the General Laws and those licenses under Chapter 140 of the General Laws which are not, by the provisions of said chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under said chapters.

(b) The Board of License Commissioners shall consist of five (5) voters appointed by the Mayor for terms of three (3) years, beginning on the first business day of July. No person while a member of the Board of License Commissioners shall have any connection, directly or indirectly, with the sale or distribution of alcoholic beverages in any form.

SECTION 6-10: RECREATION COMMISSION⁴

There shall be a Board of Recreation Commissioners consisting of five (5) members and two (2) alternates appointed by the Mayor and approved by the City Council, serving staggered three-year terms. The Board of Recreation Commissioners shall act in an advisory capacity to the Mayor. Any vacancy of a regular member of the Recreation Commission shall be filled by the appointment of an alternate member by the Mayor.

SECTION 6-11: PUBLIC SAFETY COMMISSIONN**

(a) There shall be a Public Safety Commission consisting of five (5) members, all of whom shall be residents and registered voters of the City, appointed by the Mayor*** subject to provisions of section 2-10. ~~(c) The members shall serve 3-year staggered terms. Commission members shall serve without compensation.~~

* The Committee discussed the fact that with the advent of the new Charter, qualifying to be a member of the Licensing Commission changed from elected officials, ie Selectboard, to persons appointed by the Mayor, yet the Charter empowered the Commission with powers exercised by a Selectboard. It is highly recommended that the City Council draft an Ordinance specifically outlining in detail the powers, duties and limitations of the Licensing Commission to insure the public confidence in the Commission.

** The Committee discussed at length, in light of current events, about whether this Charter under subsection (d) Powers and Duties adequately addresses citizen concerns and grievances regarding the infringement of their civil rights by local law enforcement. The Committee determined that the current language is adequate, however the Committee also recommends a

⁴Editor's Note: See also Art. V, Recreation Commission, of Ch. 34, Boards, Committees and Commissions, of the Code of the City of Greenfield.

study be commissioned to determine how the powers and duties could be expanded or if an Independent Review Board should be created.

Otis: It was my impression that discussion revolved more around (e) written complaints than (d). I would ask that the words “The Committee determined that the current language is adequate, however” and “also” be deleted; I’m not comfortable having my name attached to such a statement. At minimum, in the interests of increased diversity, I support raising the composition of the Commission from 5 to 7 or 9.

*** The Committee also recommends that the phrase “using best efforts to choose from among the City’s diverse population” be added here to encourage a diverse board membership.

Erin: Support revising to the language submitted by AW, EDD, SG (in Allen Woods document)

AW – following wording suggested by members ED, SG, and AW to replace all of 6-11(a):

- a. There shall be a Public Safety Commission consisting of seven (7) members, all of whom shall be residents and registered voters of the City, appointed by the Mayor subject to provisions of section 2-10. The Mayor shall make every effort to appoint Commission members so that the Commission reflects the most recent Census demographics of the City in terms of race, ethnicity, gender, and age. The Commission may include no more than three employees or former employees of the police and fire departments.

(b) At the first meeting in each fiscal year, the commission shall elect a chairperson, vice chairperson and secretary and the secretary shall keep a record of its meetings. (Amended 1/5/2017)

(c) ~~(e) The members shall serve 3 year staggered terms. Commission members shall serve without compensation.~~

~~(e) The members shall serve 3 year staggered terms. Commission members shall serve without compensation.~~

(d) *Powers and Duties:* The commission shall assist the Mayor in the supervision and oversight of the police and fire departments*, including the coordination of the administration of both** departments with one another, and with other City departments and agencies by making recommendations to the Mayor concerning[:]

1. Setting priorities within said departments;

2. The annual operating budgets of both departments, after the Mayor and commission have met with the chiefs to discuss the proposed budgets;

3. The capital budget requests of both departments, after the Mayor and the commission have met with the chiefs to discuss the requests, provided, however, that commission members may only inspect the departments on an annual basis in connection with the budget review or in relation to a written complaint from the public. (Inspections shall be made only after approval from the chief has been obtained to insure it will not unduly disrupt department operations.)

4. Final interviews for appointments and promotions of officers and **men and women**, in the police and fire department, shall be conducted by the commission and the chief. The chief shall submit his recommendations to the commission and the commission, if it does not agree with said recommendations, shall submit written reasons for not concurring with said recommendations to the Mayor. Appointments and promotions of public safety personnel shall be made in accordance with Civil Service Law and General Laws, and local hiring policy requirements as defined by the Mayor, respectively.

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* (Add a new Section 5. See below) ***

(e) The commission shall review written complaints made by the public concerning:

The operation of the police and fire departments, and the conduct of employees of both departments.

* Committee recommends to add "and emergency medical services/ambulance services ("EMS")"

** Committee recommends to delete "both" and replace with "all".

*** It has been recommended to the Committee to add a new Section 5 which states "The EMS with respect to its contracts with the City and with respect to other services provided by EMS."

Err: Do we need to say "men and women" or can it just say "persons"

All written complaints received shall be forwarded to the chief of the department to which they relate and the chief shall investigate or cause to be investigated said complaints and submit **his** findings and recommendations, in connection therewith, that **he** deems appropriate.

The commission shall adopt such rules and regulations, consistent with this ordinance, the civil service statute and police and fire collective bargaining agreements, as it deems necessary to establish procedures to be followed in filing of written complaints by the public, investigating complaints and holding hearings concerning complaints made to it regarding the operation of the police or fire department and the conduct and officers and employees of each department. Citizen complaints shall be considered part of the employee's personnel file.

The commission shall apply the principle of progressive discipline, except those instances where more severe punishment is warranted.

(f) Meetings.⁵

1. The Commission shall meet on a regular basis^{*}.
2. Special meetings may be called by the Mayor, Chair^{man} of the Commission or majority vote of the Commission,
3. Minutes shall be kept of all public meetings,
4. The Commission may establish its own rules of procedure including those governing the conduct of its meetings.

(g) In the event of a vacancy, the Mayor shall make an appointment for the balance of said term subject to City Council approval pursuant to section 2-10.

(h) No member of the Commission shall be an employee of the police department or fire department, nor shall any member of his or her family be an employee or retired member of the police or fire department within sixty (60) months of his or her retirement date.

"Family member" shall mean father, mother, spouse, child, stepchild, grandchild, brother, sister, bother-in-law, sister-in-law, nephew, and niece.

(i) Commission members shall be **special municipal employees.**

⁵Editor's Note: This subsection breakdown and title were added editorially at time of publication. Subsequent subsections were also redesignated accordingly.

* The Committee recommends that the phrase “on a regular basis” be changed to a specific schedule of meetings dates due to the importance of the Commission, ie “once a month”.

“at least (AW) once a month.

Erin: footnote the MGL?

SECTION 6-12: LIBRARY TRUSTEE

(a) There shall be a Board of Trustees of the Greenfield Public Library which shall consist of seven (7) persons appointed by the Mayor, with approval by the City Council, for a term of three (3) years so arranged that the terms shall be staggered.

(b) The Board of Trustees of the Public Library shall set policies that affect the internal operations of the Library. The Board shall have the custody and management of the Library and reading rooms and of all property, including Library trust funds, of the City Library devoted to Library purposes, subject to the following conditions: all funds raised or appropriated by the City for the support and maintenance of the Library shall be expended under the direction of the said Board subject to the approval of the Mayor. The Mayor, Library Director, and the Chairperson of the Library Trustees shall consult each other prior to the submission of the Library budget to the Mayor for appropriation.

(c) The Mayor shall, in addition, have the following powers and duties to appoint the Director upon the recommendation of the Board of Trustees and such Director shall be in charge of the day-to-day operations of the Library, subject to the personnel policies of the City and the Direction of the Board of Trustees.

(d) The Director shall, in addition, have the following powers and duties:

1. To appoint all other officers and employees connected with the Library upon the approval of the Mayor within the limits established by collective bargaining agreements or otherwise, to fix their salaries, define their duties, make rules concerning their tenure of office and to discharge them.

2. To make all reasonable rules and regulations for the operation and management of the Library in consultation with the Mayor*.

(e) The Board of Trustees of the Public Library shall, in all matters of general municipal policy and procedures, be subject to policy directives designed to achieve uniformity and better administrative control as may from time to time be issued by the Mayor. **Responsibility for the ordinary maintenance of library buildings and grounds may be transferred to a City Central Maintenance Department by ordinance adopted by the City Council.** The Board of Trustees

of the Public Library shall have all the other powers and duties as may be provided by General Law, by Charter, by ordinance or otherwise.

* The Library Director suggested to have the phrase “and the Library Trustees” added here.

AW – I support change

** The Library Director suggested deleting this sentence since an Ordinance has been adopted. However, this sentence empowers the City Council to adopt an Ordinance, therefore it is suggested to remain for the benefit of future reference.

SECTION 6-13: ZONING BOARD OF APPEALS⁶

(a) There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) alternates appointed by the Mayor, approved by City Council for staggered terms of three (3) years.

(b) The Zoning Board of Appeals shall have all powers which are conferred on zoning boards of appeal by the General Laws and such additional powers and duties as may be provided by this Charter, by ordinance or otherwise.

(c) Any vacancy of a regular member of the Zoning Board of Appeals shall be filled by the appointment of an alternate member by the Mayor.

SECTION 6-14: BOARD OF ASSESSORS*

(a) There shall be a Board of Assessors consisting of three (3) members, one (1) appointed by the Mayor for an indefinite term, who would act as "chief assessor" and two (2) elected at large by the voters, for staggered terms of 4 years.

(b) The Board of Assessors shall have all powers which are conferred on Board of Assessors by the General Laws and such additional powers and duties as may be provided by this Charter, by ordinance or otherwise.

(c) Unless otherwise provided by law, the Assessor appointed by the Mayor shall be a full-time employee of the City and entitled to all the benefits occasioned thereby. The compensation of each Assessor shall be determined by bylaw.

(d) *Term of Office* – The term of office for all elected members of the board of assessors shall be 4 years each, with staggered terms, beginning on the first business day of January after the City Election and until the member’s successor has been qualified.

* The Committee discussed this Section in some detail. Concerns brought to the Committee included conflict of interest, number of assessors and what number should be elected and what number should be appointed. The Committee references MGLA Chapter 41, Section 24 regarding Assessors, a copy of which is

⁶Editor's Note: See also Art. IV, Zoning Board of Appeals, of Ch. 34, Boards, Committees and Commissions; and Part X, Zoning Board of Appeals Regulations, of the Code of the City of Greenfield.

attached as Exhibit _____. It was discussed and determined by the Committee that rules controlling conflicts of interest of assessors and rules for eligibility requirements for assessors were better remedied in an Ordinance. It is also recommended to consider expanding the number of assessors and then consider how many are elected and how many are appointed to promote public confidence.

Mayor: In SECTION 6-14 BOARD OF ASSESSORS, please consider changing the number of elected assessors from 2 to 4.

Rationale: This has come up several times in conversation with some members of the City Council. It is not unreasonable to think that we might want to have a larger number of people on the board to vote. Moving the number to 4 elected officials plus the one appointment will give us five voting members on this Board and potentially help broaden the scope of individuals considering items before them related to property assessment.

SECTION 6-15: CITY CONSTABLES

- (a) There shall be two (2) City Constables appointed by the Mayor for a term of three (3) years.
- (b) City Constables shall have all those powers granted to them by the General Laws and shall perform whatever duties authorized by law at the request of the Mayor.
- (c) City Constables shall be paid an annual salary as voted by ordinance.

SECTION 6-16: BOARD OF HEALTH^{7*}

- (a) There shall be a Board of Health consisting of three (3) members appointed by the Mayor for a staggered term of three (3) years, one (1) of whom shall be a physician or a licensed qualified health care professional.
- (b) The Board of Health shall have all those powers of all other Boards of Health in this commonwealth and all powers provided by the General Laws and whatever powers are granted to it by the City Council.

SECTION 6-17: REGISTRARS OF VOTERS

- (a) There shall be a Board of Registrars of Voters consisting of four (4) members, appointed by the Mayor, with City Council approval, in accordance with the General Laws.
 - (b) The members of the Board of Registrars shall receive such compensation for their services as set by ordinance.
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⁷Editor's Note: See also Part VII, Board of Health Regulations, of the Code of the City of Greenfield.

* There was much discussion among the Committee members of this section, stimulated by a citizen who works as a health agent. The state law allows for a city to have a Board of Health, or a Health Department. The original charter continued the existing system of a Board of Health. The Committee also references MGLA Chapter 111, Sections 24-36.

The Committee also discussed the role of the City Health Director, or agent. That position is not defined in Section 6-16, nor in any of the Ordinances, and the question was raised, but not answered, of whether or not the Health Director/agent reports to the Board of Health, or the Mayor. It is suggested that a set of Ordinances be enacted that defines and regulates the role of Health Director viz a viz the Mayor and the Board of Health or the Charter can be amended to add a provision stating the same. If it is decided to have the Health Director/Agent report directly to the Board of Health, then Sections 3 of the Charter shall have to be amended to “except the Health Director/agent” from the Mayor’s direct control and supervision.

SECTION 6-18: COUNCIL ON AGING⁸

(a) There shall be a Council on Aging consisting of not less than three (3) nor more than fifteen (15)* members, appointed by the Mayor for staggered three-year terms.

(b) The Council on Aging Director or designee shall consult with the Mayor prior to submission of the Council on Aging budget to the City Council for appropriation.

(c) The Council on Aging shall, in addition, have the following powers and duties: to select and submit to the Mayor for appointment the candidate to serve as Director of the Council on Aging who shall be charged with the day-to-day administration of the Senior Center, subject to the personnel policies of the City, the direction of the Mayor, and the ordinances and policies of the Council on Aging.

(d) The Council on Aging shall have management of the Senior Center. The director shall, in addition, have the following powers and duties: to hire all employees of the Senior Center, subject to the approval of the Mayor and within the limits established by collective bargaining agreements or otherwise; to define their duties; and to make recommendations for discharge.

(e) The Council on Aging shall have all other powers and duties as may be provided by all other applicable laws or otherwise granted by the City Council.

SECTION 6-19: CITY ATTORNEY

(a) The City Attorney shall be appointed by the Mayor for an indefinite term.

(b) The City Attorney shall be a member in good standing of the Bar of the Commonwealth of Massachusetts and shall have sufficient experience and training in municipal law to represent the City in connection with its municipal affairs and before the Courts of this commonwealth and the United States.

⁸Editor's Note: See also Ch. 49, Council on Aging; and Ch. 1301, Council on Aging Bylaws, of the Code of the City of Greenfield.

(c) The City Attorney shall receive an annual salary and other benefits and allowances for expenses as voted by the City Council.

(d) He/She shall not represent any corporation, individual, business, committee, authority, board or political subdivision of any kind or description which contracts with or has any direct or indirect connection with the City. The Mayor may, upon complete disclosure by the City Attorney of his/her intent to represent any individual, corporation or entity, allow such representation provided the Mayor grants such permission in writing, a copy of which shall be filed with the City Clerk and shall be deemed a public record.

(e) Nothing in this section shall prevent the Mayor from retaining other counsel in order to represent the City from time to time as the Mayor deems appropriate.

* Suggested by the Council to reduce the number of members from 15 to 11.
AW – I support.

SECTION 6-20: PLANNING BOARD⁹

(a) There shall be a Planning Board consisting of seven (7) members; five (5) members and two (2) alternates appointed by the Mayor, with approval by City Council, serving staggered three-year terms.

(b) The Planning Board shall have all powers which are conferred on planning boards by General Laws and such additional powers and duties as may be provided by this Charter, by ordinance or otherwise.

(c) Any vacancy of a regular member of the Planning Board shall be filled by the appointment of an alternate member by the Mayor.

SECTION 6-21: CONSERVATION COMMISSION¹⁰

(a) There shall be a Conservation Commission consisting of five (5) members appointed by the Mayor, with approval by City Council, serving staggered three-year terms.

(b) The Conservation Commission shall have all powers which are conferred on Conservation Commissions by General Laws and such additional powers and duties as may be provided by this Charter, by ordinance or otherwise.

(c) Any vacancy of a regular member of the Conservation Commission shall be filled by the appointment of a new member by the Mayor

⁹Editor's Note: See also Art. VII, Planning Board, of Ch. 34, Boards, Committees and Commissions; and Part VIII, Planning Board Regulations, of the Code of the City of Greenfield.

¹⁰Editor's Note: See also Part IX, Conservation Commission Regulations, of the Code of the City of Greenfield.

SECTION 6-22: OTHER ELECTED OFFICIALS

(a) At the election, the voters shall, in every year when the terms of officers referred to herein expire, elect the following City officers for the following terms: 3 trustees of the A.K. Warner Trust for a term of 2 years; 3 trustees of the Jennie L. Bascom Education Fund for a term of 2 years; 1 elector under the Will of Oliver Smith for a term of 2 years; and such other officers as required by law to be elected.

(b) Any vacancy to the above-named elected offices shall be filled by the remaining members of the particular office and the Mayor at a joint meeting appointing an individual who shall serve until the next annual election.

SECTION 6-23: CABLE ADVISORY BOARD

(a) There shall be a Cable Advisory Board consisting of three (3) regular members, and two (2) alternates, appointed by the Mayor, with City Council approval, serving staggered three-year terms.

(b) Any vacancy of a regular member of the Cable Advisory Board shall be filled by the appointment of an alternate member by the Mayor.

SECTION 6-24: MAYOR'S TASK FORCE AGAINST DOMESTIC VIOLENCE*

(a) There shall be a Mayor's task force against domestic violence to advise the Mayor with regard to the formation of public policy on domestic violence. The task force shall consist of 7 members, 3 of whom shall be appointed by the Mayor with review by the City Council as provided in section 2-10, and 4 of whom shall be appointed as provided in subsection (c).

(b) In making the Mayoral appointments, the Mayor shall seek persons who are: (i) experienced in the field of youth services; (ii) members of women's and men's advocacy groups; (iii) mental health providers; (iv) probation officers in the district or superior court system; and (v) medical professionals on the staff at the Franklin Medical Center. The 3 members to be appointed by the Mayor shall serve for terms of 3 years.

(c) The remaining 4 members of the committee shall include: (i) a police officer designated by the chief of police; (ii) a representative of the Franklin County District Attorney's Office designated by the Franklin County district attorney; (iii) the Mayor or the Mayor's designee; and (iv) a City Councilor designated by the City Council President. The 4 remaining members shall serve for terms of 2 years.

(d) At least 4 members of the task force shall reside in the City of Greenfield. The committee shall meet at least twice annually and shall provide its members with notice of the meetings at least 15 days in advance of such meetings.

(e) The committee shall select a chair by majority vote of the members at a meeting duly called for that purpose.

(f) The terms of all of the members shall be so arranged so that at least 2 of the members' terms shall expire each year.

**** [New Section 6-25] **** AW – I support new section changes as suggested in Exhibit.

***** Suggestions for amending this provision were provided to the Committee by the Task Force, and are incorporated herein in Exhibit ____ attached hereto, which were accepted by the Committee.

****** The Committee discussed the addition of a new Section 6-25 of the Charter.

Section 6-25: Human Rights Commission. This section is defined well in Chapter 136 of the City Ordinances, which can be copied in full, in part or amended for this Section.

ARTICLE 7 ELECTIONS; ELECTION RELATED MATTERS

SECTION 7-1: CITY ELECTIONS

The regular City Election shall be held on the first Tuesday after the first Monday in November on years ending in an odd number. All City Elections shall be nonpartisan and no party mark, emblem or other designation shall appear on any ballot used at a preliminary or general election for City offices.

SECTION 7-2: PRELIMINARY ELECTION

(a) A Preliminary Election shall be held not less than six (6) weeks prior to the general election on a Tuesday chosen by the City Clerk, with the approval of the City Council, so as to not conflict with any civil or religious holidays.

(b) *Signature Requirements* - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of Mayor not less than one hundred (100) such signatures, provided, however, that not more than twenty-five (25) signatures from any one precinct shall be counted in the minimum number of required signatures; for the office of Councilor-at-Large or School Committee member, not less than one hundred (100) such signatures, provided, however, that not more than twenty-five (25) signatures from any one (1) precinct shall be counted in the minimum number of required signatures; for the office of Precinct Councilor not less than fifty (50) such signatures, all of which shall be from the precinct from which the nomination is sought; and for the office of assessor, not less than 100 signatures, provided, however, that not more than 25 signatures from any 1 precinct shall be counted in the minimum number of required signatures. All other elected officials shall be required to obtain not less than 25 signatures to place the official's name on the ballot.

(c) *Ballot Position* - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the City Clerk, which shall be open to the public.

(d) *Determination of Candidates* - The two (2) persons receiving at a preliminary election the highest number of votes for nomination for any office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general City election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to validate same. If two (2) or more persons are to be elected to the same office at such regular election, the several persons, in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballots.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have their name printed on the official ballots for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there be printed on such ballots the names of candidates exceeding twice the number to be elected.

(e) *Condition Making Preliminary Unnecessary* - If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the City Clerk for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the City shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the City Clerk shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots to be used in any particular precinct or precincts of the City, no preliminary election shall be held in such precinct or precincts.*

* It has been suggested to the Committee that the City consider changing its form of elections to Rank Choice Voting ("RCV"). Although the recent ballot referendum to change state and federal elections in Massachusetts to RCV failed, the City of Greenfield voted 55-45 to support RCV and Home Rule provides an opportunity for Greenfield to initiate this type of voting for its local elections. There are also many residents who have contacted the Committee asking for this change to be given serious consideration. In order to make such a change, the procedures outlined in MGLA Chapter 43B, Section 10 (a) must be followed. If the will of the public is to make the change, a Charter Commission needs to be formed and the resulting determination be put before the voters at the next possible election.

The Committee has done some research on this. Easthampton uses RCV, and by way of example, its Charter provisions have been incorporated into a suggested manner in which our Charter Section 7-2 can be amended and substituted for the current Section 7-2, as provided for in Exhibit _____. AW – Exhibit only allows for single winner elections. Multiple winner elections require a significantly more complicated definition, etc.

Erin: I think we received outreach from communities engaged in this more so than the committee doing research.

There is another issue to consider. The goal of RCV is to achieve a 50% or more vote, or clear majority for a candidate to be elected. That works when there are several candidates for one elected position. However, under our Charter, there are instances when the top two candidates in the voting are deemed elected, which means by definition, both winners cannot achieve the 50% threshold. Examples under our Charter are the Council elections for At-Large candidates and the School Committee elections where the top vote getters in a group are the winners. Easthampton does not have this issue, and its Charter example does not solve this problem. However, Amherst recently decided to use RCV, and included in its Charter Commission Report are RCV procedures for elections of candidates in groups such as the examples above. Their Charter Commission Report is attached as Exhibit _____. Either the other provisions in our Charter need to be changed to remove the group elections, or the type of suggestions in the Amherst Charter Commission report can be given consideration.

The Committee discussed the pros and cons of making such a change. The pros are the ability to remove the Primary Elections which are costly and don't work well with write in candidates as exemplified in the recent Mayoral election. Another pro is the RCV forces the candidates to campaign in a positive manner, as each is looking for a vote as a second or third choice from their opponents' supporters. The cons are the complexity of the RCV system, especially with multiple candidates, and the concern about lack of public understanding, confidence and transparency in the outcome of each election. With this in mind, the Committee does not make a recommendation, as this will be up to the Charter Commission and voters to decide after a long and detailed process of education and debate.

Erin: I do not feel well-informed enough on RCV to include these "pros" and "cons" as adopted by the Committee.

SECTION 7-3: BALLOT POSITION

The order in which names of candidates appear on the ballot for each office at the preliminary and general election shall be determined by a drawing, by lot, conducted by the City Clerk which shall be open to the public.

SECTION 7-4: PRECINCTS

The territory of the City shall be divided into nine (9) precincts so established as to consist of as nearly an equal number of inhabitants in each precinct as is possible, in compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. The City Council shall from time to time, but at least once in each ten (10) years, review such precincts to insure their uniformity in number of inhabitants.

SECTION 7-5: APPLICATION OF STATE GENERAL LAWS

Except as expressly provided in this Charter and authorized by law, all City Elections shall be governed by the General Laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, general and special elections, the submission of Charters, Charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

SECTION 7-6: PETITIONS TO COUNCIL OR SCHOOL COMMITTEE

(a) *Individual Petitions, Action Discretionary* - The City Council and the School Committee shall receive all petitions, signed by one (1) or more voters, which are addressed to either of them and may, in their discretion, take such action in regard to each such petition as may be deemed necessary and advisable.

(b) *Group Petitions, Action Required* - The City Council or the School Committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by one hundred (100) voters, or more, and which seeks the passage of a measure. The hearing shall be held by the City Council or the School Committee, or, in either case, by a committee or subcommittee thereof, and the action by the City Council or the School Committee shall be taken not later than three (3) months after the petition is filed with the Clerk of the Council or the secretary of the School Committee as may be appropriate. Hearings on two (2) or more petitions filed under this section may be held on the same date and at the same time and place. The Clerk of the Council or the secretary of the School Committee shall mail notice of the hearing to the ten (10) persons whose names appear first on the petition at least forty-eight (48) hours before the hearing. Notice, by publication in a local newspaper not less than seven (7), nor more than fourteen (14) days prior to the date set for the public hearing, shall be at public expense.

SECTION 7-7: CITIZEN INITIATIVE MEASURES

(a) *Commencement* - Initiative procedures shall be started by the filing of a proposed initiative petition with the City Clerk. The petition shall be addressed to the City Council or to the School Committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by not less than ten (10) voters of the City. The petition shall be accompanied by an affidavit signed by five (5) voters and containing their residential address, stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form and shall indicate which member shall serve as clerk of the petitioners committee.

(b) *Referral to City Attorney* - The City Clerk shall, following receipt of each such proposed petition, deliver a copy of the petition to the City Attorney. The City Attorney shall, not later than fifteen days after receipt of a copy of the petition, in writing, advise the City Council or the School Committee, as may be appropriate, whether: (1) the measure as proposed may lawfully be proposed by the initiative process; (2) whether, in its present form it may be lawfully adopted by the City Council or the School Committee; and (3) whether the City Clerk may issue blank forms as provided pursuant paragraph 7-7 (c). If the opinion of the City Attorney is that the measure fails in any respect the reply shall state the reasons for that opinion, in full. A copy of the opinion of the City Attorney shall also be mailed to the person designated as clerk of the petitioners committee.

(c) *Submission to City Clerk* - If the opinion of the City Attorney is that the petition is eligible pursuant to Section 7-7 (b), the City Clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the

proposed measure, as determined by the City Attorney, together with the names and addresses of the first ten (10) voters who signed the originating petition. No later than ninety (90) days following the date the blank forms are issued by the City Clerk, the petitions shall be returned and filed with the City Clerk signed by not less than ten percent (10%) of the total number of voters voting in the most recent biennial City Election, but not less than five percent (5%) of all registered voters on the same date. Signatures to an initiative petition need not all be on one (1) paper, but all such papers pertaining to a measure shall be fastened together and filed as a single instrument, with the endorsement thereon of the name and residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer.

Not later than ten (10) days after the filing of the petition, the Board of Registrars of Voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent regular biennial City Election. The City Clerk shall attach to the petition a certificate showing the results of the City Clerk's examination and shall return the petition to the Clerk of the Council or the secretary of the School Committee according to how the petition is addressed. A copy of the Board of Registrars of Voters certificate shall also be mailed to the person designated as clerk of the petitioners committee.

(d) *Action on Petitions* – Not later than sixty (60) days after the date a petition is returned to the Clerk of the Council or the secretary of the School Committee by the City Clerk, and after publication in accordance with section 2-9(c), the City Council or the School Committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered a rejection of the initiative measure. If the City Council or the School Committee fails to act with respect to any initiative measure which is presented to it not later than sixty (60) days after the date it is returned to it by the City Clerk, the measure shall be considered to have been rejected on the 60th day. If an initiative measure is rejected, the City Clerk shall promptly give notice of that fact by certified mail to the person designated as clerk of the petitioners committee.

(e) *Supplementary Petitions* - Not later than sixty (60) days after the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the City Clerk by the petitioner's committee as determined in section 7-7(a). The supplemental initiative petition shall be in the same form as the initial petition and signed by a number of additional voters, which is equal or greater than five percent (5%) of the total number of voters voting in the most recent regular biennial City Election, but not less than two and one half percent (2 ½ %) of all registered voters as of the same date. If the number of signatures to a supplemental petition is found to be sufficient by the City Clerk, the City Council shall call a special election to be held on a date fixed by it that is not less than one hundred and twenty (120) nor more than one hundred eighty (180) days after the date of the certificate of the City Clerk that a sufficient number of voters have signed the supplemental initiative petition, and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, that if the next regular biennial City Election is to be held not later than one (1) year after the date of the

certificate, the City Council may omit the calling of a special election and cause the question to appear on the election ballot at the approaching election for determination by the voters at that election.

(f) *Publication* - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than seven (7) nor more than fourteen (14) days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the City Clerk.

(g) *Form of Question* - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by voters in an initiative petition, take effect?

(Here insert the full text of the proposed measure, or a fair, concise summary prepared by the petitioners committee, and approved by the City Attorney)

_____YES _____NO

(h) *Time of Taking Effect* - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective forthwith, unless a later date is specified in such measure; provided, however, that no such measure shall be deemed to be adopted if fewer than twenty percent (20%) of the total number of voters have voted at the election at which the question has been voted upon.*

* Upon reviewing this Section and based on comments from the public, the general consensus of the Committee is to be sure that the language is clear and understandable to the citizen who wishes to pursue remedies under this Section, and that the City Council have a good discussion about the number of voters needed to initiate each of the action steps by the City Council or School Committee, and to override by voter referendum an unfavorable decision.

The purpose of this Section is to provide an avenue for citizens to initiate lawful measures for consideration and vote by the City Council, School Committee or ultimately the voters. The timetables in this Section are less stringent than Section 7-8 since this is an initiating and not a responsive petition. Politically, this Section provides a check and a balance to the City Council and School Committee if that body is not willing to listen to or take action on a lawful initiative that is supported by a ground swell of residents.

What number of minimum voters should be necessary to put forward a petition, or override an unfavorable decision once a petition is put forward? The Committee suggests the number be based on balancing the need for the City Council and School Committee to do its day to day business and act as a representative body versus the need to give alternative power to a ground swell of citizen support towards a measure or policy that the current representative body is not interested in pursuing or needs a prod to pursue. To determine that number the Committee suggests that a percentage of all registered voters from the last biennial election be the sole formula, casting aside the idea of a percentage of actual voters in the last biennial election as being arbitrary. As far as the number of voters based on the percentage of all registered voters, the Committee suggests that since this is an initiative petition, the bar should not be too high but at a level that shows real interest by a good number of citizens to first bring the petition before the City Council or School Committee,

and then if not approved to provide a higher bar for resubmission. If the initiative is not favored by the City Council of the School Committee, then a second petition needs to be generated and a higher number of percentage of voters should be necessary to bring it to the voters directly. The reason for the higher number is because the elected boards should be allowed to filter out petitions that do not have their support yet balance that power with the ultimate power of a large enough number of citizens to override the will of the elected body and bring it to the voters.

The Committee has taken the time to prepare a suggested revised Section 7-7, which includes both a definition at the beginning of the Section and an Appendix at the end to help the citizen more easily understand what will transpire under this Section, and how to navigate the legal language, alleviating confusion and frustration. There are also included suggested percentages based on our discussions to be used to assist you by way of example. The revised Section 7-7 is attached hereto as Exhibit _____. **AW – I support changes as proposed in Exhibit 7-7.**

Mayor: 3)

In SECTION 7-7 CITIZEN INITIATIVE MEASURES paragraph (a), change the number of signatures from “not less than 10 voters of the City” to “not less than 100 voters of the City”. Change the affidavit number from 5 voters to “signed by 9 voters ...”.

Rationale: Given the complex nature of many aspects of governing and their ability to impact large segments of our city, if not the city as a whole, the number of signatures to initiate a petition should be much larger than 10.

SECTION 7-8: CITIZEN REFERENDUM PROCEDURES

(a) *Petition, Effect on Final Vote* - If, not later than thirty (30) days after the date on which the City Council or the School Committee has voted to approve a petition which was addressed to the City Council or to the School Committee and signed by a number of voters equal to ten percent (10 %) of the total number of voters voting in the most recent regular biennial City Election, but not less than two and one half percent (2 ½ %) of all registered voters as of the same date, the petition is filed with the City Clerk, protesting against the measure or any part thereof then the effective date of such measure shall be temporarily suspended. Final approval under this section shall not be complete until the time for all remedies pursuant to Section 3-7 has expired. The School Committee or the City Council shall reconsider its vote on the measure or any part thereof at the next regularly scheduled meeting of that body and, if the measure is not rescinded the City Council, shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the School Committee, or at the next regular City Election; provided, however, that pending such submission and determination, the effect of the measure shall continue to be suspended.

(b) *Certain Initiative Provisions to Apply* - The petition described in this section shall be termed a “referendum petition” and, insofar as applicable, subsection (a) of section 7-7 describing the manner in which a petition is prepared and filed, subsection (b) of said section 7-7 providing for referral to the City Attorney for a legal opinion, subsection (f) of said section 7-7 providing for publication of the text of the measure and subsection (g) of said section 7-7

providing for the form of ballot question shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" in said subsections (a),(b),(f) and (g) of said section 7-7, each time it appears, and the word "referendum" shall be deemed to replace the word "initiative" in said subsections (a),(b),(f) and (g) of said section 7-7, each time it appears.

(c) If not placed before the voters at a regular biennial election, in order for the referendum to be binding upon the City, twenty-five percent (25%) of the registered voters of the City shall vote on the measure or issue placed before the City by citizens' referendum procedure.*

* Upon reviewing this Section and based on comments from the public, the general consensus of the Committee is to be sure that the language is clear and understandable to the citizen who wishes to pursue remedies under this Section. The Committee suggests that the City Council have a good discussion about the number of voters and timetable needed to initiate a citizens' petition intended to reverse a decision and/or measure duly voted upon and approved by either the elected body City Council or School Committee. A Section 7-8 petition is not for initiating legislation or policy, but rather to overturn decisions by the City Council or School Committee which are opposed by a significant number of citizens. Depending upon the number of voters necessary to initiate such action, this Section can either be a third rail of government in Greenfield (low number allows for easier access) allowing for relatively small numbers of voters to override the City Council and School Committee votes generated by their elected judgement, or should it be a high number of voters to act as a check and balance to the City Council or School Committee in the event there is a ground swell of support contrary to the judgment of the elected bodies. Ultimately and after being petitioned, if the elected body does not override its vote, then the matter goes to the voters avoiding the elected body entirely. To determine the number of voters the Committee suggests that a percentage of all registered voters from the last biennial election be the sole formula, casting aside the idea of a percentage of actual voters in the last biennial election as being arbitrary, as is suggested in Section 7-7. Added to this suggestion is whether the percentage of votes should be different if the measure needs a 2/3 rather than majority vote by the City Council or the School Committee

The Committee heard from citizens that Section 7-8 is not easy to read, and may not make sense as written. Some residents offered their own versions for review and discussion. It is the sense of the Committee that Section 7-8 as currently written, with the language "of any measure" reinstated in the first paragraph (which omission caused much confusion) and with the cross referenced Sections 7-7 (a), (b), (f) and (g) actually written in to Section 7-8 for ease and clarification, should be the starting point for future changes.

See attached Section 7-8 drafted with "of any measure" and the cross referenced sections included for easier reading.

The key element of the Section 7-8 petition is that once filed properly and with the requisite number of voters, the measure being petitioned is suspended. Therefore it is important to the day to day operations of government that a petition of this nature be filed quickly, and be acted upon as quickly as possible. That needs to be balanced with the need to be fair to the petitioners in their ability to obtain voter signatures. A low number of voter signatures is easier to obtain than a high number of signatures. Currently, the petitioners have 30 days from the date the measure is effective to file a petition with a full set of signatures.

Since time is of the essence with this petition, there also needs to be safeguards in case the time to get a legal opinion, or receive the ballot from the Clerk, or to have the Register of Voters confirm signatures is

missed by the City. A suggestion is to have the overall time extended by each day that the City is late in compliance, so long as the petitioner is not at fault.

The Committee has taken the time to prepare a suggested revised Section 7-8, which includes both a definition at the beginning of the Section and an Appendix at the end to help the citizen more easily understand what will transpire under this Section and how to navigate the legal language, alleviating confusion and frustration. There are also included a suggested percentage and with an increase in percentage an extended deadline for filing to be used to assist you by way of example. The revised Section 7-8 is attached hereto as Exhibit _____. [AW- I support changes as detailed in file Exhibit Article 7-8 draft 3 \(djs\) AW010421](#)

Also a table of percentages from cities of similar size is attached as Exhibit _____.

SECTION 7-9: INELIGIBLE MEASURES*

None of the following shall be subject to the initiative or the referendum procedures:

1. Proceedings relating to the internal organization or operation of the City Council or of the School Committee,
2. An emergency measure adopted in conformity with the Charter,
3. The City budget or the School Committee budget as a whole,
4. Revenue loan orders,
5. Any appropriation for the payment of the City's debt or debt service,
6. An appropriation of funds to implement a collective bargaining agreement,
7. Proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action,
8. Any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures, and
9. Any proceedings providing for the submission or referral to the voters at an election.

* The Committee suggests that as the City Council considers amending Sections 7-7 and 7-7 the City Council also consider whether to add, or subtract from the above list those matters ineligible for either initiative or referendum procedures.

SECTION 7-10: SUBMISSION OF OTHER MATTERS TO VOTERS

The City Council may of its own motion, and shall at the request of the School Committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular biennial City Election for adoption or rejection any measure in the same manner and with the same force and effect as are hereby provided for submission by petitions of voters unless they shall designate that the measure is non-binding.

SECTION 7-11: CONFLICTING PROVISIONS

If two (2) or more measures passed at the same election contain conflicting provisions, only the one receiving the greatest number of affirmative votes shall take effect.

SECTION 7-12: RECALL ELECTIONS

(a) *Application* - Any person holding an elected office may be recalled from such office by the voters in accordance with the procedures made available in this section.

(b) *Recall Petition* - Five hundred (500) or more voters may file with the Board of Registrars of Voters an affidavit containing the name of the elected at-large officer sought to be recalled and a statement of the grounds for recall. The signatures on such affidavit shall contain the names of at least twenty-five (25) voters in each of the precincts into which the City is divided for the purpose of elections. One hundred (100) or more voters* may file with the Board of Registrars of Voters an affidavit containing the name of the** individual precinct elected officer sought to be recalled and a statement for the grounds for recall.

If the affidavit is found to be valid the City Clerk shall thereupon deliver to the first ten (10) persons named on said affidavit, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the City Council; they shall contain the names and residence addresses of the ten (10) persons to whom they are issued and they shall contain the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; and they shall be dated and signed by the City Clerk.

The recall petitions shall be returned to the office of the Board of Registrars of Voters within twenty-one (21) days following the date they are issued, signed by not less than twenty percent (20%) of the total number of voters of the City as of the date of the most recent City Election.

* The Committee suggests that the phrase “of an individual precinct” to clarify the distinction between recalling an at-large officer from a precinct officer. AW – I support

** The Committee suggests the word “the” be deleted and the word “their” be added.

The sheets constituting a petition need not all be filed at the same time. For the purposes of this section such a petition shall be deemed filed whenever the persons responsible for its filing notify the Board of Registrars of Voters, in writing, that the filing is complete. Before receiving such notice the Board of Registrars of Voters may, but shall not be required to, certify signatures on the sheets already filed.

The Board of Registrars of Voters shall not later than ten (10) days after the date the petition forms are filed certify both the number of signatures on the petition, which are the names of voters, and the percentage that number represents of the total number of voters voting and total number of voters registered as of the date of the most recent regular biennial City Election.

(c) *Recall Election* - If the petitions are certified by the Board of Registrars of Voters to contain a sufficient number of signatures, the City Clerk shall forthwith submit the petitions, with their certificate, to the City Council. Upon receipt of the certified petition forms, the City Council shall forthwith give written notice to the officer whose recall is sought of the validity of such petitions. If the officer whose recall is sought does not resign the office not later than five (5) days after delivery of that written notice, or after leaving that written notice at the officer's last known place of residence, the City Council shall, after consultation with the City Clerk and the Board of Registrars of Voters, order a special election to be held on a date not more than ninety (90) days after the date of its notice to the officer whose recall is sought.

(d) *Ballot Question* - Ballots used at the recall election shall state the proposition in substantially the following form:

Shall (insert name of officer) be recalled from the office of (fill in office)?

_____YES _____NO

(e) *Officeholder* - The person whose recall is sought shall continue to hold the office and to perform the duties until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be deemed to be recalled and the office shall be deemed to be vacant upon the certification of the election results. If a majority of the votes cast on the said question is in the negative the person whose recall was sought shall continue in the office until the expiration of the term for which elected, but subject to recall as provided in section (f), below.

(f) *Restriction on Recall Petition* - No recall petition shall be filed against any elected official until at least six (6) months following the commencement of a term of office, nor, in the case of any elected official subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than six (6) months of the term of office of any elected official remains at the time of the certification of the petition forms.

(g) *Filling of Vacancy* - If the office of Mayor is declared vacant as the result of a recall election the City Council shall forthwith call a special election to be held on a date fixed by it not less than sixty (60) nor more than ninety (90) days following the date of the recall election. The person elected at such special election shall serve for the balance of the unexpired term remaining at the time of election.

If a vacancy occurs in the office of City Council, or School Committee, it shall be filled in the manner provided (section 2-11, or section 4-6 respectively).

No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by such recall.

ARTICLE 8 GENERAL PROVISIONS

SECTION 8-1: CHARTER CHANGES

(a) *In General* - This Charter may be replaced, revised or amended in accordance with any procedure made available under the State Constitution, or by statutes enacted in accordance with the State Constitution.

(b) *Periodic Review* - The City Council shall provide, in every year ending in a zero, for a review of the Charter by a special or standing committee of the Council [consisting of not more than three (3) members] and four (4) additional persons to be appointed by the Mayor. The said committee shall file a report within the said year recommending any changes in the Charter, which it may deem to be necessary or desirable.

SECTION 8-2: SEVERABILITY

The provisions of this Charter are severable. If any provision of this Charter is held invalid, the other provisions shall not be affected thereby. If the application of this Charter, or any of its provisions, to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 8-3: SPECIFIC PROVISION TO PREVAIL

To the extent that any specific provision of this Charter may conflict with any other provision expressed in general terms, the specific provision shall prevail.

SECTION 8-4: RULES AND REGULATIONS

A copy of all rules and regulations adopted by City agencies shall be placed on file in the office of the City Clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any City agency shall become effective until five (5) days following the date it is so filed.

SECTION 8-5: REVIEW OF BYLAWS

In each year ending in a 5 or in a 0, the City Council shall provide for a review of all ordinances of the City to determine if any amendments or revisions may be necessary or desirable. The review shall be conducted under the supervision of the City Attorney or, if the City Council so directs, by special counsel appointed for that purpose. A report, with recommendations, shall be submitted within that year.

SECTION 8-6: RULES OF CONSTRUCTION

(a) *Number and Gender* - Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

(b) *Computation of Time* - In computing time under the Charter, if less than seven (7) days "days" shall not include Saturdays, Sundays or legal holidays. If seven (7) days, or more, every day shall be counted.

(c) *References to General Laws* - All references to General Laws contained in the Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to such chapters or sections, or to the corresponding chapters and sections of any rearrangement, recodification, or revision of such statutes enacted or adopted subsequent to the adoption of this Charter.

SECTION 8-7: CERTIFICATE OF ELECTION OR APPOINTMENT

(a) Every person who is elected, including those elected by the City Council, or appointed to an office of the City shall receive a certificate of such election or appointment from the City Clerk.

(b) Except as otherwise provided by law, before performing any act under an appointment or election, all such persons shall take and subscribe to an oath of office and be sworn to the faithful performance of their duties.

SECTION 8-8: OATH OF OFFICE OF MAYOR, COUNCILORS, AND SCHOOL COMMITTEE MEMBERS

(a) The Mayor-elect, Councilors-elect and School Committee members-elect shall, on the first business day of the new year, meet and be sworn to the faithful discharge of their duties. The Mayor or Mayor-elect shall preside at such joint session. In years following the election of the Mayor the oath shall first be administered to that officer by the City Clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to the members of the City Council and the School Committee by the Mayor, after the Mayor has been duly sworn, or by any of the above named officials. A certificate that said oath or oaths have been taken shall be entered in the journal of the City Council.

(b) In case of the absence of the Mayor-elect, or any member-elect of the City Council or School Committee on said day the oath of office may at any time thereafter be administered to

such person who for any reason shall not have taken the oath on the day named. All such oaths subsequently taken shall be entered in the journal of the City Council.

(c) After the oath has been administered to the Councilors present, they shall organize by the election of a president and a vice-president, as provided in section 2-2. The president shall be sworn by the City Clerk, or, in the case of the absence of the City Clerk, by any justice of the peace. After the oath has been administered to the School Committee members present, they shall organize by the election of a chair and a vice-chair, as provided in section 4-2. The chair shall be sworn by the City Clerk, or, in the case of the absence of the City Clerk, by any justice of the peace.

(d) When the City Council and the School Committee meet to organize the members present, senior in years of service on such body, shall preside pending the election of a president, or of a chair, as the case may be. If two (2) or more of the members present have the same number of years of service the member present senior in both years of service and age shall preside.

ARTICLE 9 TRANSITIONAL PROVISIONS

SECTION 9-1: CONTINUATION OF EXISTING LAWS, ETC.

All General Laws, special laws, City ordinances, City Council votes and rules, and rules and regulations of or pertaining to the City that are in force when this Charter takes effect, and are not specifically or by implication repealed hereby, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation.

SECTION 9-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

Except as otherwise provided in this Charter, all City agencies shall continue to perform the duties until reelected, or until successors to their respective positions are duly appointed or elected and qualified, or until their duties have been transferred and assumed by another agency.

SECTION 9-3: TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any City agency, or part thereof, the powers and duties of which are assigned in whole or part to another City agency, shall be transferred forthwith to such agency.

SECTION 9-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizance's, obligations, contracts and other instruments entered into or executed by or to the City before the adoption of this Charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the City, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the Charter; and no legal act done by or in favor of the City shall be rendered invalid by reason of the adoption of this Charter.